

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

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4 UNITED STATES OF AMERICA, : 19CR386(PKC)  
5 Plaintiff, :  
6 -against- : United States Courthouse  
7 MUSTAFA GOKLU, : Brooklyn, New York  
8 Defendant. : Friday, October 7, 2022  
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1 (In open court.)

2 (The Hon. PAMELA K. CHEN, presiding.)

3 (Defendant present.)

4 (Jury enters the courtroom.)

5 THE COURT: You may be seated, jurors. Everyone may  
6 be seated.

7 Good morning, ladies and gentlemen, and thank you  
8 again for being so prompt and timely.

9 As I said yesterday we are going to hear summations  
10 or closing arguments from the lawyers. We'll start with the  
11 Government. Ms. Kassner.

12 MS. KASSNER: Thank you, your Honor.

13 Members of the jury, good morning.

14 At the beginning of this trial Ms. Diouf told that  
15 you the evidence would prove beyond a reasonable doubt that on  
16 seven separate days the defendant, Mustafa Goklu, met a drug  
17 dealer named Pat in his parked Mercedes Benz. She told you  
18 that in exchange for a hefty fee, the defendant took Pat's  
19 drug money and converted it from Bitcoin into cash to conceal  
20 what it was, who owned it, and where it came from. But Pat  
21 was an undercover agent with the DEA and the defendant's  
22 transactions, his money laundering activities, were captured  
23 on audio recordings.

24 Now that the trial is over, you've seen for  
25 yourselves that that is exactly what the evidence in this case

1 has shown. You've also learned that the undercover agent was  
2 not the defendant's only customer. He owned and operated a  
3 business under the name Mustangy Corp. U.S.A. The defendant  
4 was not legally authorized to provide the money transmitting  
5 services that he was offering because he never registered his  
6 business or obtained a license from New York state or federal  
7 authorities as required by law.

8           The defendant faces two charges in this case. Count  
9 One charges him with money laundering. Count Two charges him  
10 with operating an unlicensed money transmitting business.

11           Now, as Judge Chen will instruct you, the burden  
12 never shifts to a defendant in a criminal case. It is always  
13 on the Government to prove the defendant's guilt beyond a  
14 reasonable doubt. And the Government welcomes that burden.  
15 So I want to take this opportunity to talk about everything  
16 that you've seen and heard over the past few days and to walk  
17 you through how that evidence proves both of these charges  
18 beyond a reasonable doubt.

19           I'll note that when you're in the deliberation room,  
20 you will have access to all the evidence in the case, that  
21 includes the exhibits and the trial testimony. One thing you  
22 won't have is a copy of the slides that I'm about to go  
23 through with you, but if you use the verdict sheet and follow  
24 Judge Chen's instructions, you should be able to move through  
25 the charges without much difficulty; especially in a case like

1 this, because while this is an important case, it's not a very  
2 complicated one.

3 Let's start with Count One, money laundering. In a  
4 few minutes you'll hear from Judge Chen who will instruct you  
5 on the law. If anything that I say is different from what  
6 Judge Chen says, listen to Judge Chen. But I expect Judge  
7 Chen will tell you that to establish the defendant committed  
8 money laundering the Government needs to prove three things.

9 First, the defendant conducted or attempted to  
10 conduct at least one financial transaction that affected  
11 interstate or foreign commerce.

12 Two, that transaction involved property that law  
13 enforcement represented and the defendant believed was  
14 proceeds of, here, it's narcotics trafficking.

15 And three, that the defendant acted with the intent  
16 to conceal or disguise the nature, location, source, ownership  
17 or control of that property.

18 Let's start with that first element. The question  
19 is, did the defendant conduct at least one transaction that  
20 affected interstate or foreign commerce in any way? The  
21 answer is yes. This isn't really in dispute. You've seen  
22 tons of evidence of these transactions. You listened to audio  
23 recordings of the transactions as they happened in realtime,  
24 and you heard from the agent who was there.

25 Based on those recordings and that testimony, you

1 know that between August 2018 and April 2019 the defendant and  
2 the agent met seven times either at a street corner in Midtown  
3 Manhattan or a Wendy's or Starbucks in Sunnyside, Queens. You  
4 also saw and heard about how much the defendant exchanged for  
5 the undercover agent on each of those days. You saw at first  
6 the numbers were under \$5,000 worth of Bitcoin, but over time  
7 the numbers got higher and higher until the defendant was  
8 exchanging more than \$20,000, then more than \$30,000, finally  
9 more than \$40,000 worth of Bitcoin at a time. He charged a  
10 seven or 8 percent fee for each of these transactions. And in  
11 total, he exchanged more than \$130,000 worth of Bitcoin for  
12 the agent.

13           You also saw that in April 2019 the defendant met  
14 the agent again and was in the middle of exchanging another  
15 \$50,000 worth of Bitcoin and offered to exchange another  
16 \$25,000 worth of Bitcoin but he wasn't able to complete those  
17 transactions because he was arrested.

18           In addition to that testimony and those recordings,  
19 you saw plenty of other evidence that these transactions  
20 occurred. You saw encrypted messages between the undercover  
21 agent and the defendant setting up the terms and locations of  
22 each of these deals. You saw screenshots of confirmations  
23 showing that that Bitcoin successfully made its way into the  
24 defendant's crypto currency wallet. You saw photographs of  
25 the cash that the defendant handed the undercover agent in

1 exchange for that Bitcoin.

2 Finally, you heard evidence that these transactions  
3 all affected interstate and foreign commerce. Here I expect  
4 Judge Chen will tell you that all that is needed is that the  
5 transaction affected interstate or foreign commerce in any way  
6 or degree, no matter how small. That requirement is met here  
7 in multiple ways.

8 First, the defendant and the agent used blockchain  
9 technology to carry out the transaction. You heard from  
10 crypto currency expert Special Agent Infante that the  
11 blockchain is global, so every transaction on the blockchain  
12 affects interstate and foreign commerce.

13 Second the defendant advertised his service on  
14 LocalBitcoins.com, based in Finland overseas.

15 Finally, third, the defendant said on the recordings  
16 that some of the cash that he provided to the agent came after  
17 he wired that money from Turkey. Based on all of this  
18 evidence, the Government has overwhelmingly established the  
19 first part of money laundering.

20 So I want to skip ahead to this third element. The  
21 relevant question here is, did the defendant intend for his  
22 transactions to conceal the nature, source or ownership of  
23 that Bitcoin? The answer is yes. You know this because  
24 everything about these transactions was designed to be under  
25 the table and off the grid, to leave no trace behind.

1           Recall the LocalBitcoins.com page, the thing that  
2   attracted the attention of the DEA in the first place.  
3   Special Agent Infante explained there are two ways to exchange  
4   Bitcoin into cash primarily. The first is through a  
5   commercial exchange, like Coinbase, which is relatively quick  
6   and easy to use. You can access them on at application on  
7   your phone or laptop from the privacy of your home. And they  
8   are also comparatively cheap. Their fees were as low as under  
9   2 percent. But to use a commercial exchange, you had to  
10   provide a name and a form of identification.

11           The other way to exchange Bitcoin into cash, was  
12   through a peer-to-peer exchange, the kind of service the  
13   defendant was offering here. The defendant required people to  
14   physically meet up with him in-person and his service was  
15   expensive. He charged fees of seven or 8 percent, which is  
16   multiple times what Coinbase charged to do the exact same  
17   transaction. But unlike commercial exchanges, he didn't ask  
18   for names, he didn't ask for IDs. In exchange for those  
19   higher fees, what the defendant offered his customers was the  
20   ability to remain anonymous, to exchange tens or hundreds of  
21   thousands of dollars at a time, no questions asked, and walk  
22   away with cold, clean, untraceable cash.

23           Special Agent O'Kain told that you drug dealers who  
24   operate on the Internet are usually paid in Bitcoin, but they  
25   often have to convert it into cash to pay their suppliers.

1 Which means that businesses like the defendant's create a  
2 market that make it easy for drug dealers to use their profits  
3 to further their illegal businesses. So right off the bat you  
4 know the service the defendant was offering was designed to  
5 appeal to a market of people who were looking to conceal or  
6 disguise where their money, where their Bitcoin, was coming  
7 from, including drug dealers. That was the point. And the  
8 defendant knew that. You can tell from the recordings.

9 For example, the undercover agent in January  
10 explicitly told the defendant: I definitely want to keep this  
11 under the table. The defendant responds: Yeah, yes, I know.

12 In the same conversation, the defendant talks about  
13 Coinbase and he explains why he can't use Coinbase for his  
14 transactions. He says: I'm not touching the Coinbase. I  
15 can't touch the Coinbase. And the defendant understands why.  
16 He says: As long as you don't pass \$100,000 to the Coinbase,  
17 they are not going to question you. He knew that if you  
18 exchange more than \$100,000 in a given year on Coinbase, which  
19 by the way the undercover agent was doing, Coinbase would  
20 start asking questions, it would appear suspicious. So the  
21 defendant offered the agent an alternative so he could  
22 exchange his Bitcoin without ever revealing it was drug money.

23 The defendant's intent to conceal the source of this  
24 Bitcoin is also clear from how these transactions took place.  
25 Take a step back and think about it. How do these people



1 communicate? The agent and the defendant exchanged encrypted  
2 messages the defendant periodically deleted his message  
3 history so they can't be cited as evidence against him. Where  
4 did the undercover and the defendant meet to exchange all of  
5 this money? In the back of a parked Mercedes Benz usually in  
6 a Wendy's or Starbucks parking lot in Queens. Not in an  
7 office, or a cafe, or an apartment or any other public place.  
8 No, they meet up in a car with the doors, closed out of sight  
9 of the street cameras and the police.

10           You saw that the defendant didn't linger. His  
11 meetings with the agent lasted just long enough for that  
12 Bitcoin confirmation to go through, so they could go their  
13 separate ways.

14           Finally, you heard the defendant exchange more than  
15 \$130,000 without ever knowing the agent's real name or having  
16 any way to track him down if something went wrong. This  
17 secrecy was by design. It was done so the defendant could  
18 exchange dirty money and later deny that he knew it was dirty.

19           So now that we've talked about the defendant's  
20 business, let's talk about his dealings with the agent. What  
21 the Government has to prove is the undercover agent  
22 represented his Bitcoin came from selling drugs and the  
23 defendant believed him or deliberately ignored the obvious.  
24 So first question is, did the undercover agent say or indicate  
25 his Bitcoin came from drug dealing? The answer to that is

1   yes, he did. You heard this in the recordings.

2               The agent told the defendant multiple times that his  
3   money came mostly from selling pills to college kids,  
4   including Adderall and Oxy, which he explained referred to  
5   oxycodone. As Judge Chen will instruct, Adderall and  
6   oxycodone are both controlled substances under federal law.

7               Here are some examples of the agent's statements  
8   from January 27 and April 30, 2019. The agent explains that  
9   his business partners are in California and he brings it back  
10   to Manhattan. He says: That's what we do. We do all that,  
11   Adderall, Oxy, all that stuff. He says: The real money is in  
12   the Adderall and the pills. He offers: I can get you some  
13   Oxy, which he says is short for oxycodone. And also offers  
14   the defendant some Adderall and says: That's what all the  
15   college kids are taking.

16              The agent also told the defendant that he earned  
17   some money selling marijuana, which he explained was illegal  
18   to sell federally. As Judge Chen will instruct you, marijuana  
19   is also a controlled substance under federal law. Like  
20   Adderall and oxycodone, it's a narcotic.

21              Here is a discussion from April 30. The agent and  
22   the defendant are talking about marijuana farms in California.  
23   The agent says: Lots of farms out there. Still risky,  
24   though, my buddy got arrested the other day. The defendant  
25   asked: Why is that? The agent explains: Still federally, I

1 mean, he got arrested by the feds. The agent later offers to  
2 bring marijuana back to New York to give the defendant a cut  
3 of the business if he's interested.

4 So you know that the agent said his Bitcoin was from  
5 drug sales. The remaining question is, did the defendant  
6 believe the agent's Bitcoin came from selling drugs? The  
7 answer to that is, yes, he did. How do you know?

8 Well, first of all, you know because that's what the  
9 agent told him. And the defendant had no problem hearing him  
10 or understanding what he was saying. He got it. This  
11 conversation is a great example of that. The defendant  
12 explicitly acknowledges that he understands selling marijuana  
13 out of California is illegal. In his own words: Oh, you got  
14 to be in California. If you go out, it's trouble, right? He  
15 knows that one of the ways the agent is making his money is by  
16 selling marijuana from California in New York. But what does  
17 the agent -- what does the defendant do right after this  
18 conversation? He agrees to exchange another \$50,000 worth of  
19 Bitcoin and offers to exchange another \$25,000 more. This  
20 proves that the defendant knew the Bitcoin he exchanged was  
21 drug money.

22 But the defendant is also guilty because in dealing  
23 with the agent he knew there was a high probability that  
24 Bitcoin came from drugs; but he deliberately ignored every red  
25 flag he encountered. Judge Chen will instruct you that

1 deliberately ignoring the obvious makes the defendant just as  
2 guilty. You can't just stick your head in the sand. You  
3 can't plug your fingers in your ears. You cannot close your  
4 eyes and ignore the obvious when it comes to drug proceeds.  
5 But that is exactly what the defendant did, because what he  
6 cared about was making money.

7           So let's take a look at some of the red flags the  
8 defendant ignored. First, look at the amount of money the  
9 agent asked the defendant to exchange, money he said came from  
10 shipments. In December 2018 he said he might, the agent  
11 might, need to exchange as much as \$100,000 or \$200,000 worth  
12 of Bitcoin at a time, quote, "depending on how much we sell."  
13 The following month he said: You have no idea how much money  
14 we have coming in. It's insane. It's insane. These college  
15 kids cannot get enough.

16           Again, where did the defendant agent meet to  
17 exchange all this money? In the back of a parked car, usually  
18 behind a Wendy's or Starbucks in Queens. The agent traveled  
19 all the way from Manhattan to get there. Normally if you're  
20 exchanging that amount of money, tens or hundreds of thousands  
21 of dollars, you do it in a public setting, you provide a form  
22 of ID and your name, and you fill out paperwork. People who  
23 get that amount of money from legitimate sources do not  
24 convert Bitcoin into cash in the back of a car in a Wendy's  
25 parking lot.

1           The agent also explained why he had to convert all  
2   that Bitcoin. He said: I have people to pay. He said: They  
3   are not great people. He explained he was going back to  
4   California to pay them.

5           Who physically carries hundreds of thousands of  
6   dollars in cash and travels with it across the country so they  
7   can pay people? Drug dealers.

8           The agent also warned about what would happen if he  
9   didn't get all that money to pay all his people. On  
10   January 24 he said: Well, if I get seized with this I'm going  
11   to get my fucking head chopped off or something. He later  
12   says: Who's going to be shooting at us? It's the guy back in  
13   California that wants the rest of the hundred, that's who.

14          What kind of person gets shot for not paying the  
15   people they owe money to on time? Drug dealers.

16          Finally, perhaps the strongest evidence of the  
17   defendant's belief that Bitcoin came from selling drugs, is  
18   the defendant's own words. The defendant's own statements  
19   proves he knew that drug dealers often turned to people like  
20   him to exchange their Bitcoin for cash, and that exchanging  
21   drug money was illegal and could get him arrested. In fact,  
22   he explained that's exactly what happened to his own business  
23   partner. He says that his partner was arrested in Manhattan  
24   after he was caught exchanging \$50,000 worth of Bitcoin for a  
25   drug dealer. These are his words. The defendant says:

1   Actually they weren't tracking for Bitcoin. They were  
2   tracking some idiot guy who buys and sells drugs. Because  
3   they follow these guys almost always, and one of the, the  
4   idiot sold or bought from him. So when they tracked him, the  
5   drug guy, the cop said bingo we caught something else.

6               The defendant was terrified that what happened to  
7   his partner would happen to him. That the police would follow  
8   a drug dealer and eventually catch and prosecute him for  
9   laundering the drug money. He betrayed this fear time and  
10   time again.

11              You heard it when the defendant explained he refused  
12   do business in Manhattan, which is where his partner got  
13   caught. Here he says: I don't want to count money in  
14   Manhattan. Manhattan sucks, man. Again, I told him no deal  
15   at fucking Manhattan. Manhattan sucks. People ask me can you  
16   come to Manhattan, no.

17              Then he explains: In Manhattan, this is why I don't  
18   go to fucking Manhattan. Even a homeless I saw he's, working  
19   for the NYPD.

20              Again and again the defendant talks about all the  
21   cameras and police who might be looking for drug dealers  
22   and find their way to him.

23              Here are more quotes: Close the door, man, the  
24   cops, we're not drug dealers. We're buying Bitcoin. Then he  
25   says: Even if you're staying in here there is a fucking

1 camera on top. It's watching traffic, but they are going to  
2 say what is going on there. Are these some drug guys? Then  
3 he explains: I don't want to come here, these fucking malls  
4 all have cameras. They called me, hey, are you a drug dealer?  
5 No. That's why I try to stay in Queens.

6           The defendant also is afraid of cars with black  
7 tinted windows because they might be the police. Here he  
8 talks about how the black windows scares me. And he talks  
9 about two fucking ford black tinted car is there.

10           The defendant also talks about all the ways the  
11 police might build a case against him. Here he talks about  
12 searching for his Bitcoin wallet on his browser. He says:  
13 Actually I'm exposing myself. I'm visible right now. If  
14 something goes wrong, they can catch your history and say hey  
15 let me see your wallet.

16           Then the defendant also talks about his money  
17 counter and the benefit and risks of using it. On the one  
18 hand he says he needs to make sure he's not getting money,  
19 quote, "from somewhere, something bad, who knows," which shows  
20 that he knows some of this money he's exchanging does not come  
21 from legitimate sources. But he also says having that counter  
22 is a risk; in his own words: The fucking machine, that  
23 fucking machine is evidence that you're a drug dealer.

24           So again, the defendant is afraid of being caught in  
25 the middle of laundering drug money because that's what he's

1 doing. What all of this shows is the defendant believed the  
2 Bitcoin he exchanged from the defendant was from drug dealing.  
3 The fact that he deliberately ignored all the red flags that  
4 he encountered, makes him just as guilty.

5 Together this all of this evidence proves the  
6 defendant committed money laundering.

7 I want to turn to Count Two, operation of an  
8 unlicensed money transmitting business. I expect Judge Chen  
9 will tell you that for this charge the Government has to prove  
10 three things.

11 First, the defendant knowingly owned, controlled  
12 managed, operated, et cetera, all or part of a money  
13 transmitting business.

14 Two, that the defendant didn't have a license in New  
15 York or failed to register with the Secretary of Treasury as  
16 required.

17 And three that the business affected interstate and  
18 foreign commerce.

19 Let's start with the first. Element there is no  
20 real dispute here. You'll hear that a money transmitting  
21 business is simply a business that transfers funds, including  
22 Bitcoin, by any means in exchange for a fee. That's exactly  
23 what the defendant's business did. He transferred Bitcoin  
24 through cellphone application and transferred cash by hand in  
25 exchange for a fee.



1           You know that the defendant owned or operated his  
2 money transmitting business. In fact, he went as far as to  
3 incorporate that business, Mustangy on LocalBitcoins.com, but  
4 he used the name Mustangy Corp. U.S.A. in his filing. He  
5 listed himself on some paperwork as the president of that  
6 business. He received mail for that business addressed to his  
7 apartment in Sunnyside, Queens. He maintained a corporate  
8 bank account for that business.

9           And you learned that in addition into the agent, he  
10 had other customers. He even references to some of those  
11 customers when he talked to the agent. Here is one example of  
12 that. The undercover agent writes: He needs cash fast. And  
13 the defendant says: He has \$25,000 today but that another  
14 customer, who he calls the 8 percent guy, also wants it and  
15 he'll give it that guy if the agent doesn't want it.

16           You also saw the defendant's messages with some his  
17 other customers. Many of them reference prior deals. Here is  
18 one example. Someone, who says he's Asian guy with glasses  
19 says: We've dealt before at 10K and 20K and asked to do  
20 another 65K. Another example from a customer named Corey, who  
21 described himself as the guy who met you at Starbucks all the  
22 time, and asked to do another deal. Another customer who  
23 says, thanks for the easy trade the other day. And expresses  
24 interest in another Bitcoin transaction.

25           Finally, in some these messages the defendant

1 himself refers to his business as my biz. Here he says Amex  
2 charged my business 4.75 percent. The defendant himself  
3 considered this a business.

4           You've also seen that the messages that the  
5 defendant exchanged with his other customers were very similar  
6 to the ones he exchanged with the agent. They had the percent  
7 that he charged, which was similar. He also met everyone at  
8 what was effectively his office, this Starbucks in Sunnyside,  
9 Queens. Here is an example of how he direct his current and  
10 perspective customers to the same Starbucks where he met the  
11 undercover.

12           Finally the defendant had a sufficient volume of  
13 customers that he drove around with an electronic money  
14 counter in his car. He had a tool of the trade. What this  
15 shows is that he had everything he needed to run a business.

16           And the defendant's business operated like any  
17 other. He had advertisements on LocalBitcoins.com. He had an  
18 established rate of seven or 8 percent, depending on the  
19 volume. He had an office, which for him was the back of his  
20 car outside of Starbucks in Queens. He had a robust client  
21 base.

22           Let's turn to the second element. I don't think  
23 this is in dispute. Judge Chen will instruct you that under  
24 New York law, people who exchange in the business of  
25 transmitting money need to get a license from the New York

1 State Department of Financial services. But you all heard  
2 testimony from Robert Tarwacki, of New York State Department  
3 of Financial Services who told you that he conducted a  
4 diligent search of New York State records, and confirmed the  
5 defendant never registered himself or his business, or  
6 obtained the required license to transmit money in New York.

7 Judge Chen will also tell you that under federal law  
8 there is a separate requirement that money transmitting  
9 businesses register with the United States Secretary of  
10 Treasury within 180 days of the business being created or the  
11 first transaction occurring. But you heard testimony from  
12 Theodore Vlahakis from the Department of Treasury who  
13 confirmed he also conducted a diligent search and confirmed  
14 that the defendant never registered himself or the business or  
15 received a license from the United States Department of  
16 Treasury. You saw the official certifications showing the  
17 results of those searches.

18 Finally, the last element is that the business  
19 affected interstate or foreign commerce. Again, I expect this  
20 is not in dispute.

21 As you heard before, first, the defendant used  
22 blockchain technology and Internet applications to conduct all  
23 of these transactions. And again, the blockchain is global,  
24 which means any transaction that affects the blockchain  
25 affects interstate and foreign commerce.

1           Second, you saw that at least some the defendant's  
2 customers crossed state lines to meet the defendant to  
3 exchange that Bitcoin for cash or cash for Bitcoin. This is  
4 just one example where a customer travels from New Jersey  
5 across state lines to New York to finish that transaction. So  
6 the defendant's business affects interstate commerce in that  
7 respect as well.

8           Viewed all together this evidence proves that the  
9 defendant operated an unlicensed money transmitting business  
10 and also committed money laundering.

11           Members of the jury, you will soon go back to  
12 deliberate. When you do, remember that what the judge brings  
13 to this process is the authority of the court and the ability  
14 to decide when and how a case proceeds. What all of you bring  
15 to this process, is your life experience and your common  
16 sense. You should use it, because that's what ensures that  
17 cases are decided correctly.

18           Everyone is entitled to the presumption of  
19 innocence. Everyone is entitled to have their case heard  
20 before a fair and impartial jury. The defendant has had that.

21           But at the end of the day, the only thing that  
22 matters is what the evidence says and where the evidence leads  
23 you. In this case, when you consider all the evidence and  
24 apply your common sense, you will reach the only verdict  
25 consistent with that evidence, the defendant is guilty on both

1 counts. Thank you.

2 THE COURT: Thank you, Ms. Kassner.

3 Mr. Singer, your summation. And we need you to wear  
4 the microphone, if only for the interpreters.

5 MR. SINGER: Understood. May I proceed?

6 THE COURT: You may.

7 MR. SINGER: Good morning, folks.

8 During my opening statement to you I talked about  
9 the issues that I expected were going to be the central and  
10 tipping point issues in this case. The issue with regard to  
11 the money laundering charge, whether the Government can prove  
12 that Michael Goklu believed that the Bitcoin being brought by  
13 the undercover officer were the proceeds of illegal unlawful  
14 narcotics transactions. Whether his intent and purpose was to  
15 conceal or disguise the source of that money, where it was  
16 coming from. And whether he was operating a money  
17 transmitting business, as the judge will define it. Those, in  
18 fact, are the tipping points. That's what I'm going to be  
19 focusing on in my remarks this morning.

20 I submit to you that each one of those issues are  
21 open to interpretation. That the evidence is not at all clear  
22 as the Government, the prosecutor, seems to suggest. That  
23 there is a great deal of question about what Mr. Goklu  
24 believed.

25 And it's important to understand that that's the

1 issue, what Mr. Goklu believed. Not what the undercover  
2 believed or remembered or what the undercover officer  
3 interpreted. Because you heard a lot of testimony about that.

4 The undercover said Mr. Goklu said XYZ to me and  
5 this is what I believe that it meant. Or this is the  
6 information based on that, this is why I took whatever the  
7 next steps are. Essentially this is what I believe.

8 But it doesn't matter what the undercover officer  
9 believes. There is no element in the charge against Mr. Goklu  
10 about what the prosecutors believe, or what inferences the  
11 prosecutors draw from the evidence. That's not the issue.

12 The issue isn't does federal law permit the sale of  
13 marijuana. That's not the issue. The issue is, what  
14 Mr. Goklu believed.

15 Because if Mr. Goklu believed that the proceeds,  
16 that the Bitcoin that was being brought to him by the  
17 undercover officer, if he believed that it was from some  
18 lawful activity, then the Government hasn't proved their  
19 charge.

20 Now, I stated it as an affirmative, Mr. Goklu  
21 believed something, believed that the Bitcoin came from lawful  
22 activity. I'm going to discuss that, but that is not the  
23 question for you as jurors. The question for you as jurors  
24 is, has the Government proved beyond a reasonable doubt that  
25 he believed that it was the proceeds of unlawful activity. I

1 submit to you that the evidence that you've seen in this case,  
2 some of it just highlighted by the prosecutor, but that the  
3 evidence brought to you in this case, you would be perfectly  
4 reasonable and rational to determine and believe that  
5 Mr. Goklu thought that this was coming from legal marijuana  
6 farms and/or perhaps other sources, but certainly from legal,  
7 tax-paying licensed marijuana farms in California; and not  
8 from some illegal or unlawful narcotics activity, that that's  
9 what his belief was.

10           There is evidence to support that; but as jurors  
11 don't have to get there. I submit that you could. I'd argue  
12 that you should. But it's not necessary.

13           Because if as you think about it yourself as you  
14 talk to each other back in the jury room, you come to a point  
15 where, I'm not sure, then the prosecution hasn't proven an  
16 essential element of the money laundering count and you have  
17 to find Mr. Goklu not guilty of that count. That's how this  
18 works.

19           That is part and parcel of the presumption of  
20 innocence. Right. The United States Government brings a  
21 charge against an individual. When the individual says, I  
22 plead not guilty, that individual is saying: Prove it. You  
23 made the accusation, prove it.

24           And your verdict is not guilty or innocent. Your  
25 verdict is guilty or not guilty. Proven beyond a reasonable

1     doubt or not proven. I submit to you they have not proven  
2     this essential element.

3             Let's talk about sort of what the transactions were.  
4     There are were seven of them, they met seven times. Six  
5     completed transactions, and an arrest before the seventh one  
6     could be completed.

7             I've urged you in my opening to listen to the  
8     recordings. The recordings vary, their meetings vary from ten  
9     to 11 minutes on the short side, up to 40 minutes on the long  
10    side. Each one of the recordings that you have, has some dead  
11    air at the beginning before it gets to the conversation.  
12    Because it had some recording devices on before the two of  
13    them actually meet. It picks up stuff that doesn't matter,  
14    the only thing that matters is the conversation between the  
15    two people.

16            I urge you to listen to these. It can be perhaps a  
17    little long and perhaps a little boring, but when you listen  
18    to it, you get a flavor for what these interactions were about  
19    and what Mr. Goklu was thinking about and doing. Each one was  
20    conducted essentially the same way. We meet. We talk the  
21    cash. We count of cash. He uses a money counting machine not  
22    because he's concerned where the money is coming from. The  
23    inability to see through and understand what they are talking  
24    about is rather shocking.

25            You use a money counting machine that's got a sensor



1 on it that runs through because you're concerned that someone  
2 may be feeding you counterfeit bills. Not because you're  
3 concerned about whether it's from a Craigslist sale or drug  
4 transactions or anything else. You're looking for, you're  
5 concerned about counterfeit bills. You've got people who will  
6 pass counterfeit bills. It's got nothing to do with this  
7 case.

8           The Government thinks if he's got a money counter  
9 the only possible explanation for anybody to have a money  
10 counter in their car to conduct a transaction is because they  
11 are a drug dealer. Get an imagination. There are so many  
12 other things that go on in the world.

13           I guess if you're a prosecutor all you see is crime.  
14 That's all you see, all you see is drug crimes, anything that  
15 everybody does has got to be a drug crime. Get an  
16 imagination.

17           Think about it. There are other things that people  
18 engage in, other types of activity. There are a lot of  
19 Americans who, honest to God, want to be private. Want to  
20 conduct transactions without the police or the Government or  
21 anybody else getting involved, or banks. There are a lot of  
22 Americans who don't want all their information to be going out  
23 through social media accounts. There are people that value  
24 their privacy.

25           But somehow someone wants some privacy, doesn't want

1 to get the police involved, doesn't want to have their money  
2 seized for a period of time, so the prosecutors' only possible  
3 explanation is because it's drug dealing. Again get an  
4 imagination. Open your mind a little bit. There are other  
5 things going on in the world.

6           So they get together. They count the money.  
7 Mr. Goklu is focused on the money. He says both for me and  
8 for you, because I want to make sure that the amounts are  
9 correct. This is the exchange rate. This is the amount.  
10 This is my fee. This is how much cash I'm going to give you.  
11 That's the first part of the transaction.

12           The second part of the transaction is the  
13 transmission of the Bitcoin. The only way for that to happen  
14 is, first, the undercover officer initiates the trade from his  
15 phone. It's an app that goes through his wallet. The details  
16 of that are unimportant, but we know that it's initiated from  
17 the undercover's phone and it goes to Mr. Goklu's phone.  
18 You're doing a transaction, you make sure it's complete before  
19 you walk away.

20           When you listen to these conversations, these  
21 recordings, what you clearly pick up is that Mr. Goklu is  
22 focused on his phone. He's watching his phone. He's  
23 complaining about how long it is. What is wrong with this  
24 stuff. And then the complaints go into everything else,  
25 because he complains about a lot of things. But he's clearly

1 watching the phone.

2           Some of the responses when the undercover officer  
3 tries to initiate something, some of the responses are: Why  
4 is this taking so long. Clearly he's looking at his phone.

5           He's not -- the prosecutors seem to think if two  
6 people are sitting in a car and one person says something,  
7 that it's just a given that the other person hears, is  
8 listening, and processed it and isn't focused -- there is no  
9 possibility that he's focused on anything else. But when you  
10 listen to the recordings, it's clear he's focused on other  
11 things.

12           There is, I submit, a language issue. Mr. Goklu  
13 speaks English. Obviously we've listened to him in the  
14 recording. He's got an accent. It's clearly not his first  
15 language. He speaks English. He can converse and do  
16 transactions or whatever in English, but it's not his first  
17 language. If it's something important, he wants an  
18 interpreter to assist him to make sure he's picking up  
19 everything. So it's partly the possibility that language came  
20 into play. A lot of what the undercover officer is using --  
21 there is some slang things thrown in. It's not simply a given  
22 that Mr. Goklu would understand.

23           Does he understand it and process it and get what it  
24 is that is being said? That's part of it. And part of it is,  
25 is he hip to the drug lingo? The Government wants to have

1 it both ways here. The undercover officer keeps saying, well,  
2 you know drug dealers, people involved in drugs, know these  
3 things. And so if I said certain things, if I said keys,  
4 well, people know that keys are involved in drugs.

5 Did every one of you know that? Does everybody just  
6 know these terms? Does everybody just know what Oxy is? Does  
7 everybody just know what Adderall is?

8 Again, they start with the assumption that he's  
9 involved, that Mr. Goklu, is involved in drugs; and,  
10 therefore, understands what the undercover is saying when he  
11 uses these terms.

12 But at the same time, at the very beginning of their  
13 first meeting Mr. Goklu is violating the cardinal rule of  
14 fight club, that you don't talk about fight club. It may be a  
15 reference that not everybody gets. The idea is that, the  
16 undercover expresses, that people who are involved in drugs --  
17 buying, selling, the money part, whatever it is -- that people  
18 involved in drugs don't talk about it. Because that's just  
19 not what you do. Because you understand that what you're  
20 involved with is illegal and so you don't talk openly about  
21 it, you just don't. You hint at it. You work around the ends  
22 if you're trying to get a point across, you hint it.

23 At their first meeting on the top of their first  
24 meeting, when the undercover is getting into Mr. Goklu's car,  
25 what is the first thing that Mr. Goklu says to him: Come on,

1 man, close the door. We're not drug dealers here.

2 He raises it immediately. He violates the cardinal  
3 rule. If it's not violating the cardinal rule, what it  
4 suggests is he's not even aware of such a thing. He doesn't  
5 know about this.

6 Is it possible, would it be reasonable to conclude  
7 from that that he's not part of the drug world and, therefore,  
8 doesn't know what things mean? What you're supposed to say,  
9 what you're not supposed to say? Does he come into this with  
10 no knowledge at all? I submit that you could absolutely find  
11 that from the evidence you've got here.

12 Why would somebody not use Coinbase? Gee, the  
13 prosecutors say why would Mr. Goklu be engaging in this  
14 activity? And why would customers be coming to him and not  
15 use Coinbase, like it's the be-all and end-all. Why not use  
16 Coinbase, it's a lower fee?

17 I suppose they also argue that every check cashing  
18 business in every neighborhood throughout New York City is  
19 only for drug dealers? People take their paychecks and go to  
20 check cashing establishments who charge fees to cash the  
21 paycheck. You're giving part of your paycheck to a check  
22 casher. Is everybody who does that must be involved in drugs,  
23 the money must be dirty? Is it quick? Is it easy? Is it  
24 necessary? People pay fees for things all the time. It  
25 doesn't mean they are involved in this illegal activity.

1           And Coinbase, they tell you, it's quick and easy.

2   And then when you ask questions about it, it ain't so quick  
3   and easy. You have to set up an account. You have to provide  
4   various levels of verification. Some people like privacy and  
5   don't want to do that, but you have to set up the accounts,  
6   you've got to go through the steps.

7           Once you get it set up, then you're there. Then you  
8   can conduct the transaction that way.

9           A couple of things came out from the testimony of  
10   the crypto currency expert, Ms. Infante. First we learned  
11   that you link your Coinbase account to your bank account. How  
12   quickly does Coinbase send the money to your bank account?  
13   You go with Bitcoin or go online, I got three Bitcoin here, I  
14   want my cash. Well, it gets sent electronically to your bank  
15   account. It goes through the same system that any other  
16   transfers go through. She acknowledges it can take several  
17   days before the money hits your account. So why might you not  
18   use Coinbase? Because it can take days, your money is sitting  
19   for days. They are getting the float. Just like when you  
20   write a check, somebody writes you a check, you deposit it in  
21   your bank account, it takes several days before the money is  
22   in your account to make use of it. It's the same system. So  
23   it's not quick and easy. It can take days before you get  
24   access to your money.

25           And something else she acknowledges at the end,

1    Coinbase is not insured by the federal Government. What does  
2    that mean? It means you've got money sitting in there for a  
3    few days, it's not insured that if it disappears you're out of  
4    luck.

5               Why might you not use Coinbase? Because they are  
6    not insured. They could go out of business tomorrow and  
7    you're out of luck. There is reasons not to use them.

8               Whereas, in this transaction, within a half hour or  
9    so you've got your cash and you walk away and you've got the  
10   money.

11              Why would Mr. Goklu be trying to avoid the police?  
12   The prosecutors make a big deal of this. Well, the only  
13   possible reason that their imagination allows for is that he  
14   knows that he's involved in drug dealing and that's why he  
15   doesn't want the police around. Didn't they listen to the  
16   recordings? It's right in the recordings. Mr. Goklu is  
17   saying over and over again: I'm not concerned about going to  
18   jail. That's not my concern. I'm not concerned about going  
19   to jail. I'm not a drug dealer. I'm not doing anything.

20              The police see a lot of money, they see a lot of  
21   cash, they see a money counting machine. The police who are  
22   about law enforcement jump to conclusions. They seize first,  
23   and they ask questions later. He doesn't want it to be  
24   seized. He doesn't want to go through the hassle of having  
25   all this stuff taken from him. He says, and expresses over

1 and over again, the belief that he's going to get it back.  
2 He's not concerned about going to jail. He's not concerned  
3 about being charged with a crime. Even when he talks about  
4 the partner who got involved, the police are following some  
5 drug guy. It's not that he knows that a customer is involved  
6 in selling drugs, it's just that the police come and grab you  
7 and you don't know what the customer is involved in, and they  
8 seize everything. And then discover, or they know, the police  
9 know, because they've been investigating the person, the  
10 customer, they know that the person is involved in drugs.

11 The Government here, the prosecutors here, tell you  
12 that you should assume that because it happened once to his  
13 partner, that he should not -- that everybody out there is a  
14 drug dealer. That anybody he would be dealing with is a drug  
15 dealer. He should know that and believe that.

16 But it just doesn't follow. When all you see is  
17 crime; all you see is crime. But there is other ways of  
18 looking at and understanding what Mr. Goklu is thinking and  
19 doing.

20 Each one of these transactions Mr. Goklu is making  
21 money. He's making his commission. And the commission is  
22 between seven and 8 percent. Why would someone pay seven or  
23 8 percent? Well, Agent Infante told you that there is now  
24 Bitcoin ATMs. You can go to a ATM and exchange Bitcoin for  
25 cash and pay up to 10 percent. That was her testimony. It



1 was on cross examination, of course, because the Government is  
2 not going to bring that up, but it's part of her testimony.

3 Does anybody and everybody who goes to a Bitcoin ATM  
4 and pay a fee to get their cash out a drug dealer? Is that  
5 what we are to conclude?

6 Because why would you do that? You can exchange it  
7 for a lot less. Mr. Goklu expresses his belief to the  
8 undercover officer. He brings it up about the marijuana farms  
9 in California. He expresses his belief. He tells the  
10 undercover, and through him because it's recorded all of us,  
11 what he believed. And he says the words out loud: It's a  
12 licensed marijuana farm in California.

13 And the retired DEA agent comes in here and tells  
14 you, gee, I don't know what the legal status of marijuana in  
15 California is. Really? You believe that?

16 Mr. Goklu knows and believes that a cannabis farm in  
17 California is legal. He uses the term. He's explaining it to  
18 the undercover officer, it's legal, you pay taxes. He  
19 believes that a person operating a licensed cannabis farm in  
20 California is operating a legal business, that's what he  
21 expresses to the undercover officer.

22 And on April 30 when they get together, again this  
23 is the seventh time they've gotten together, they are a little  
24 more comfortable with each other and the conversation starts  
25 with how is business right? You get together with somebody,

1    how is business. Oh, it's booming. Then you make a  
2    light-hearted comment back. Well, your business is booming,  
3    maybe I should get involved into that, maybe I should get  
4    involved. At that the undercover jumped at the opportunity.  
5    You want a piece? You want a cut? It's like, do you,  
6    Mr. Goklu, want to buy into my business? Like, I can do that.  
7    You can buy into my business. And what does Mr. Goklu believe  
8    his business is? He asked how much; to get into a cannabis  
9    farm? A cannabis farm.

10                    (Continued on next page.)

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1 (continuing.)

2 MR. SINGER: He wasn't always being recorded. He  
3 doesn't know it's an undercover officer. That's what he  
4 believed. The undercover officer told you I tried over and  
5 over again to try and get Mr. Goklu to ask me questions, to  
6 say something. I kept dropping hints, I got bad guys in  
7 California, they want their cash. They're going to cut my  
8 head off. They're going to do they're going to do that. All  
9 thighs problems I've got. I've got to take care of this  
10 business. He raises it over and over again and time and time  
11 again, Mr. Goklu goes right past him. He does not respond and  
12 if you listen to the recordings you hear it. He does not  
13 respond. And if you listen to the recordings you understand  
14 why because he's not listening to this. He's focused on his  
15 phone and waiting for the Bitcoin transaction to clear and the  
16 government says, well, if you didn't -- if you didn't  
17 understand, it's because he was deliberately burying his head  
18 in the sand.

19 Do any of you really believe that Mr. Goklu is  
20 burying his head in the sand and not listening. That that's  
21 what it is he knows what's being said and he is deliberately  
22 avoiding hearing things, listen to those conversations. That  
23 is simply not the case and you will see it and understand that  
24 from listening to their interactions.

25 So on the money laundering charges, as the

1 prosecution pointed out, it requires under the second element  
2 that the defendant, Mr. Goklu believed that the Bitcoin is  
3 from unlawful narcotics activity and I submit to you as I said  
4 before, it would be reasonable for you to conclude that he  
5 believed that it was from legal marijuana activity, but, again  
6 you don't have to get that from him the. There is reason upon  
7 reason upon reason to doubt that claim, what fluke believed it  
8 to be the proceeds of unlawful activity. Now, the intent and  
9 purpose. The intent to conceal or disguise the source of the  
10 money. They got together in August, August 28, 2018,  
11 September 21 of 2018, November 27th of 2018, December 11th of  
12 2018. And they're conducting this transaction. And three  
13 those, the undercover officer never made clear, never said  
14 anything about his Bitcoin coming from drug activity. So  
15 Mr. Goklu doesn't know who he is, doesn't know what his  
16 business is. The undercover hasn't even offer what his  
17 business is, hasn't mentioned drugs, other than to say when  
18 Mr. Goklu says it's a legal cannabis farm that pays taxes and  
19 the undercover officer says to him, yeah that's a part of my  
20 business too. So the undercover tells him that he, too, is in  
21 the legal marijuana business in California, but otherwise  
22 there's no indication. So what is Mr. Goklu's intent and  
23 intended purpose on August 28 of 2018, is it to launder drug  
24 money is it to conceal the source of the Bitcoin can why would  
25 he have any incentive to do that. There is no evidence that

1 he knew or anything -- or even should have known that there  
2 was anything I don't know wrong with it and in the second  
3 transaction and the third transaction he's making a fee. He's  
4 charging a fee and he's making money. So why -- what's his  
5 incentive or reason for doing the transaction? Is it to help  
6 the undercover officer conceal the source of the money? Why?  
7 There's no reason to. There's no hint or suggestion or  
8 statement that the money is illegal. So, clearly that wasn't  
9 Mr. Goklu's intent in the early transaction, but the  
10 Government is here telling you, well, that became his purpose  
11 by the end, did anybody say anything about that? Did the  
12 undercover say I need to get rid of this? I need to clean it?  
13 I need to get this out of my hands because I don't want  
14 anybody to know where it's coming from? He didn't say any of  
15 those things. And, in fact, the transactions operated, the  
16 later ones, January 24, January 30th, operated in exactly the  
17 same fashion as the first ones did. There was nothing  
18 different about this. So where is there evidence because it  
19 clearly didn't have the intent to conceal or disguise the  
20 source of the money in the earlier transactions there's the  
21 evidence that his intent and purpose changed by the end?  
22 Nobody said or did anything any different. Mr. Goklu is  
23 making money, by conducting these transactions. The  
24 Government has not proven this intent to conceal or disguise  
25 the source of the money. It's simply not there. Mr. Goklu

1 didn't know that it was coming from an illegal source. He  
2 thought it was coming from a legal source.

3           Because of the evidence on those two elements that  
4 the money laundering charge is lacking and again I submit to  
5 you that you could find affirmatively that Mr. Goklu did not  
6 have his beliefs and intentions but it's not necessary for you  
7 as jurors to get there. If you consider this and go I'm not  
8 sure, maybe it's possible that what the Government says it's  
9 true, but I'm not sure. I'm not convinced beyond a reasonable  
10 doubt. By law you're required to find Mr. Goklu not guilty.  
11 On the money transferring business, this is a matter of the  
12 language and I'm going to encourage you folks to listen  
13 carefully to the Judge as she gives the language of this  
14 charge and you're going to have the written charge with you in  
15 the jury room and you can look at the language as well. A  
16 money transmitting business is a business which for a fee  
17 accepts currency for transfer. That's the language that  
18 you're being given. And I submit to you under that definition  
19 that the judge is giving to you and it's included in the  
20 instruction that Mr. Goklu is not operating a money  
21 transmitting business, that he is not -- that the evidence  
22 does not prove beyond a reasonable doubt that he is accepting  
23 currency for transfer.

24           Now, is he operating a business? Well, you listen  
25 to the recordings and you look through -- it wasn't shown to

1 you but it's all in evidence, all of this information that  
2 they got off of his computer. Mr. Goklu was a black car  
3 driver, a taxi driver, driving a nice black Mercedes. You've  
4 seen the pictures of it. He's a black car driver and, in  
5 fact, in one of the recordings he's talking to the undercover  
6 about the fact that one of his regular customers has been John  
7 McCain, former senator some of you younger folks may not know  
8 who John McCain is. He ran for president in 2008. He was a  
9 prisoner of war during Vietnam. He's generally regarded as an  
10 American hero and he was a U.S. senator for many, many years.  
11 And Mr. Goklu tells the officer, you know, he's got customers  
12 he's driving that's why he is in different places all the time  
13 and one of his customers is John McCain.

14 He's also got a business or engages to make money in  
15 buying and telling these Bitcoin mining machines. You may  
16 have wondered why was I suggest the expert, agent Infante,  
17 with the Bitcoin mining machines. Well, these records are in  
18 evidence and they're available if you want to see them.  
19 There's a company in China called Bitname. They manufacture  
20 and sell machines that people use in an effort to mine Bitcoin  
21 and the records that are -- that are in evidence show that  
22 Mr. Goklu was sending -- wiring money, sending money to  
23 Bitname for these machines. These machines, the shipping  
24 labels that you see that they point to, to show Mustangy Corp.  
25 because because that's somehow mysterious. Those shipping

1 labels that they show you are the machines being sent from  
2 Bitname in China to Mr. Goklu and Mr. Goklu reselling those  
3 machines on Ebay or PayPal and sending them -- the shipping  
4 labels are sending the machines out. That's a separate  
5 business. He's got a business driving. He's got a business  
6 buying and selling these mining machines and he has customers  
7 that want to exchange cash and Bitcoin one way or the other  
8 and here is something that I submit to you is significant, the  
9 Government pulled up all of these Signal text messages that  
10 Government Exhibit 228. It's about 355 pages of text messages  
11 they got off of Mr. Goklu's phone. There was one customer,  
12 one, in mid to late April of 2019 who says something about  
13 washing money. It's at the very end of the conversation after  
14 they're calling each other names and Mr. Goklu is threatening  
15 to report him to the police because he is a drug dealer and  
16 the Government had -- they took all of his electronics out of  
17 his home, right, they sat him down and questioned him while  
18 agents are ripping his house apart and taking 20 or more  
19 electronic devices. They have all of this for years now, and  
20 they reviewed all of it and they've got all of these text  
21 messages and they've got bank records and everything else, all  
22 of this information, is there a single reference directly or  
23 indirectly to drugs in any of them, a single one? No, not a  
24 one. Is that because Mr. Goklu knows that you don't talk  
25 about it. That's what they would have you believe. He



1 doesn't talk about it because he knows that you don't talk  
2 about it, but at the same time he's talking about it in his  
3 first meeting with the undercover officer, we're not drug  
4 dealers. They can't have it both ways.

5           So folks I encourage you with regard to the second  
6 count, read that legal language, read it. It's the key to the  
7 second count, a money transmitting business needs to have a  
8 license and all of these other requirements kick in only if  
9 it's a money transmitting business and if under that  
10 definition you're not convinced that what Mr. Goklu was doing  
11 was a money transmitting business, then it's your  
12 responsibility to find him not guilty of that count as well.  
13 I've been talking for too long. I'm going to sit down. I  
14 know you're tired of hearing from me.

15           I urge you folks, take what time you need, take your  
16 time. You're going to be surprised when you go back into the  
17 jury room when you start talking to each other for the first  
18 time about the case about how everybody looked at the same  
19 thing and saw or heard a different thing. It's always a  
20 remarkable experience I'm told by jurors. I've never had the  
21 pleasure of sitting on a jury. I would love to but I don't  
22 think I'm going to be picked. Listen to each other. Talk to  
23 each other. If you need to listen to the recordings, listen  
24 to the recordings. Be mindful at the beginning of them you're  
25 going to hear some dead air and you can skip forward and find

1 the place it starts. It's probably two hours ten minutes or  
2 all of it. If you don't want to listen to all of them, take a  
3 couple of shorter ones, listen to the first one. Listen to  
4 something in the middle. Get a sense of what the interaction  
5 is. But I urge you to take your time and consider and live up  
6 to your oaths as jurors to do justice fairly and impartially  
7 and hold the Government to the burden of proof because if the  
8 Government -- they brought the accusation, they started this  
9 ball rolling and they brought the accusation and if their  
10 evidence does not satisfy the burden of proof beyond a  
11 reasonable doubt, don't hesitate to find Mr. Goklu not guilty  
12 of both counts. Thank you very much.

13 THE COURT: Thank you very much Mr. Singer.

14 THE COURT: Ladies and gentlemen, what I would like  
15 to do is just take a short break before we hear from the  
16 Government on rebuttal. Let's make it ten minutes and be  
17 ready to go a few minutes after 11 especially I know some  
18 people may need a nature break. We'll hear from the  
19 Government right after you have return. Keep an open mind and  
20 don't talk about the case.

21 THE COURTROOM DEPUTY: All rise.

22 (Jury exits.)

23 THE COURT: Have a seat, everyone. The reason I  
24 wanted to take a break before the rebuttal is I'm a little  
25 concerned, Mr. Singer, about the argument you made about the

1 money transmitting charge. You specifically told the jurors  
2 to pay attention to the jury charge regarding the meaning of  
3 transfer. Now my concern is that you are suggesting some  
4 legal argument that quite honestly should have been raised, I  
5 think, during a motion to dismiss long before the trial, or  
6 during the jury charge conference because you are suggesting  
7 to the jury that what the Government alleges was illegal money  
8 transmitting, which is the exchange of Bitcoin for cash  
9 doesn't qualify as transferring funds or transmitting. And I  
10 have not heard that argument from you before, nor did we  
11 address it in the charges that I'm going to give. So you may  
12 point the jury to my definition of transferring but it doesn't  
13 really illuminate that issue and so I am concerned that you're  
14 setting them up to question the instruction on a legal theory.

15           If you thought that the Government had miss charged  
16 this case, namely that Bitcoin to cash transactions cannot be  
17 transferring under the money -- unlicensed money transmitting  
18 business statute you should have raised that before your  
19 closing argument and certainly before we settled on the  
20 charges. So I feel that you've raised this issue a bit late  
21 and I would like to make sure that the jury instruction  
22 actually does address this issue. Is there any legal argument  
23 to be made that changing Bitcoin to dollars does not  
24 constitute a transfer of funds that would require licensing or  
25 constitute money transmitting under the statute? Mr. Singer.

1 SKWRAO: I can cite to Second Circuit case law.

2 THE COURT: But, okay. Then why not make an  
3 argument that this should have been dismissed and are you  
4 referring to your jury charges or your proposed charges?  
5 Because you didn't suggest any change to the language.

6 SKWRAO: I was satisfied about the language and  
7 thought that it accurately stated the element.

8 THE COURT: But you are arguing -- is your argument.  
9 You didn't spell this out for jury you said look closely at  
10 the definition, is your argument at least to me but not  
11 expressly to the jury that the transaction -- sorry, the  
12 conversion of Bitcoin to money does not constitute a transfer  
13 of funds that would require -- sorry, that constitutes money  
14 transmitting and then requires a license if done as a  
15 business.

16 SKWRAO: I think that it requires transfer to  
17 someone else.

18 THE COURT: What do you mean someone else? If  
19 someone gives you a Bitcoin and they give you cash who else --

20 SKWRAO: That is not a money transmitting business  
21 in my view and I press expressed that to Your Honor at the  
22 beginning of the case.

23 THE COURT: But you never moved to dismiss this  
24 count or have it briefed. Am I missing something? A legal  
25 argument like that ought to have been raised before. This has

1    been the allegation all along. Are you saying that you raised  
2    this in the jury charge and I nus confess I don't remember you  
3    raising this squarely during our conferences perhaps you  
4    alluded to it but you never asked to brief a motion to dismiss  
5    which would be the proper vehicle if you think the allegation  
6    doesn't state a charge that violates -- that states facts,  
7    that violate the statute, I feel and I'm concerned about a bit  
8    of sandbagging here. That's my concern. You know, I guess  
9    the question is how does the Government intend to argue this  
10   on rebuttal because the instructions really don't lend any  
11   support to either -- to help the jury I think on this issue.  
12   I never defined what a transfer of funds means under the  
13   statute in the instruction.

14               STPHA0: Yes, Your Honor, that's right. This is the  
15   very first time the Government is hearing this argument.  
16   Unless it was somehow missed which frankly -- the Government  
17   was equally surprised when we heard that during the closing  
18   argument. You know, I agree this is really unfortunate that  
19   it's coming to our attention now --

20               THE COURT: Hold on one second I'm just remembering  
21   now. The Government submitted full blown jury instruction the  
22   defense only submitted objection. I don't recall any objection  
23   on the basis that the conduct doesn't constitute money  
24   transmitting or a transfer is required or that I should advise  
25   the jury that an actual transfer to a third party is required

1    which is what you're suggesting Mr. Singer. I think the  
2    Government should be allowed to argue back which is P which is  
3    why I wanted to take a break that to the extent that  
4    Mr. Singer suggested that another transfer has to occur,  
5    national government has to prove that the person who got the  
6    cash here I guess the undercover was giving it to someone else  
7    or gave it to someone else or that Mr. Goklu believed it was  
8    going to be given to someone else. That is not in the statute  
9    per se and I don't think it's been litigated as to what the  
10   word transfer means so I don't want the jury to be operating  
11   under some misconception about the law that isn't fully  
12   explicated in the jury charge they're going to get and I don't  
13   want to tie the Governemnt's hands to be able to say that  
14   that's just wrong as a matter of law.

15               MS. KASSNER: Your Honor, I think the concern from  
16   the Government -- there are two concerns. I think what we  
17   would really request is a curative instruction from Your Honor  
18   because, I think what we don't want to do is heighten the  
19   issue by having to do a lengthy explanation about why this is  
20   transferring. I think that in itself is going to draw red  
21   flags and I think also we refer the jury to Your Honor for  
22   legal matters. I think that we really just -- we would ask  
23   for a curative instruction that provides that exchanging  
24   Bitcoin or cash or cash for Bitcoin maybe it could just be  
25   that operating a money-transmitting business includes

1 exchanging Bitcoin for U.S. currency or U.S. currency for  
2 Bitcoin. I agree this is a legal argument. I don't want to  
3 be litigating a legal argument before the jury.

4 THE COURT: What I would propose is adding language  
5 to the first element of the money transmitting charge which is  
6 on page entity four and it would be an additional sentence  
7 which would say exchanging Bitcoin for U.S. currency can  
8 qualify as a transfer within the meaning of the statute. I  
9 actually am concerned because we haven't had a chance to fully  
10 explore this issue but that's really because the defense  
11 hasn't raised this squarely as a legal question in any  
12 context.

13 You may have mentioned it, Mr. Singer. I do not  
14 recall it. The Government doesn't recall it, but mentioning  
15 it in passing during a status conference doesn't qualify as  
16 raising it properly so that we can resolve it and I'm going to  
17 go out on a limb and say this is the Government's theory. If  
18 it turns out to be wrong legally I expect there could be some  
19 plain error review of this because for now because we are in  
20 the middle of closing statements, I'm going to make that  
21 change to the jury charge which is to adding a sentence saying  
22 exchanging Bitcoin for U.S. currency can qualify as a transfer  
23 within the meaning of the statute.

24 MR. SINGER: Your Honor, I can't object more  
25 strongly.

1 THE COURT: You can, but the time is before now.

2 MR. SINGER: Judge, I didn't make this legal  
3 argument to the jury. I said read the charge and the conduct  
4 that's alleged doesn't make out the charge.

5 THE COURT: You want to suggest that the word  
6 transfer is the key here and so --

7 MR. SINGER: I didn't highlight the word transfer.  
8 I read the language that you had indicated that you were going  
9 to charge the jury and I was satisfied with that because I  
10 believed that I could make my argument to the jury based on  
11 that.

12 THE COURT: I am going to go back and look but the  
13 plane suggestion to me is that you're suggesting transfer to a  
14 third party and I think you used the word third party is  
15 required. I'm going to go back and look. You're going to try  
16 to get the jury to read this instruction which doesn't discuss  
17 another transfer to someone else is required to require that  
18 the cash then be transferred to someone else and it leaves  
19 this ambiguity; one that we did not have to have. We had a  
20 charge conference.

21 If you -- and we had a discussion about what  
22 argument you were going to make and not and I understand  
23 you're not required to disclose exactly all of your arguments  
24 but if I ended up, which I have now, given a charge that  
25 doesn't really answer what you claim is a critical question



1 about the money transmitting charge, that is a problem. I  
2 don't want to set up the jury to scratch their heads when  
3 thinking what did the defense say about look at the meaning of  
4 the word transfer in the charge.

5 MR. SINGER: I didn't say that.

6 THE COURT: You literally said look at the charge to  
7 see how transfer is defined.

8 MR. SINGER: No, I did not.

9 THE COURT: I am going to go back and look. I don't  
10 want to misstate it.

11 What did you mean to suggest to the jury then,  
12 Mr. Singer? Read the language in the instruction, listen to  
13 it and read it and you determine whether Mr. Goklu takes that  
14 definition and I don't think it does. That's what I said.

15 MS. KASSNER: Your Honor, that's the problem. I  
16 think the question of whether this conduct qualifies as a  
17 money transmitting business under that definition is a legal  
18 question and so I think that implication was improper --

19 MR. SINGER: First, it's a factual question for the  
20 jury. That's why we have given it to the jury to decide.  
21 Otherwise, just direct a verdict on it. The jury decides  
22 that. The jury decides whether the evidence supports the  
23 accusation that -- they have to decide whether the facts that  
24 have been established make out that element. It's not for the  
25 Court to tell them that what he did constitutes the element of

1 the crime.

2 THE COURT: On the money transferring business, this  
3 is a matter of the language and I'm going to encourage you  
4 folks to listen carefully to the Judge as she defines the  
5 language of this charge and you're going to have it before you  
6 written down. A money transmitting business is a business  
7 which for a fee accepts currency for transfer. That's the  
8 language that you're being given and I submit to you that  
9 under the definition that the Judge is giving to you that  
10 Mr. Goklu is not operating a money transmitting business; that  
11 the evidence does not prove beyond a reasonable doubt that  
12 he's accepting currency for transfer.

13 Accepting currency for transfer.

14 That's what I heard that made me think it's got to  
15 be literally then transferred to someone else. In other  
16 words, the Government's theory is he accepted Bitcoin which is  
17 currency for transfer to someone, like Western Union which you  
18 did refer to, as I recall. That is a misleading statement  
19 about the law and so the Government ought to be able to say to  
20 the jury, to the extent that you are thinking that some  
21 other -- that Mr. Goklu then had to take the Bitcoin and give  
22 it to someone else or that the customer had to take the cash  
23 and give it to someone else, that is not what's required under  
24 the statute. That's what I'm addressing.

25 MR. SINGER: I think you're reading too much into

1 that. You're making inferences and assumptions about it and I  
2 think it's for the jury to decide that.

3 THE COURT: Mr. Singer, what exactly were you  
4 arguing to the jury then? Be candid. What were you  
5 suggesting? Listen to whether he accepted currency for  
6 transfer. What did you want them to think?

7 MR. SINGER: That's not what Mr. Goklu did.

8 THE COURT: Right. Why not?

9 MR. SINGER: Because he didn't transfer the money.

10 THE COURT: This is the problem. Transfer what  
11 money; the Bitcoin?

12 MR. SINGER: Judge, the Second Circuit as far back  
13 as 1999 has said that a money transmitting business receives  
14 money from a customer and then for a fee paid by the customer  
15 transmits that money to a recipient.

16 THE COURT: You know what, that may be a legitimate  
17 argument to have made before we started this trial and before  
18 I produced these jury charges. It's a legal about whether  
19 what the Government has alleged and has always alleged to be  
20 the money transmitting crime is a crime. I'm not saying you  
21 might not have a legal argument, but the time to make it and  
22 to then sandbag the jury and me, quite frankly, in terms of  
23 the charges I was prepared to give, is not in the middle of  
24 your closing. That's my problem.

25 MR. SINGER: I don't believe that I did that. I'm

1   sorry if the Court reads it that way. I was satisfied with  
2   the legal language that you were including in the charge. I  
3   asked the jury to read the language and to consider the  
4   conduct that was alleged to determine whether the conduct made  
5   that out. That's what the jury's job is.

6           THE COURT: Mr. Singer, you've known all along that  
7   the Government's theory about the money transmitting business  
8   was that he was converting Bitcoin into cash. That's what  
9   they alleged. So the question then why would you not have  
10   raised this issue earlier saying that I don't think that that  
11   states a crime under the statute because it's not a transfer,  
12   and the problem right now is that we're dealing with a legal  
13   issue that I am not equipped to deal with in this moment and  
14   I'm going to instruct the jury that the exchange of Bitcoin  
15   into cash does constitute a transfer for the purposes of the  
16   statute. If it turns out to be wrong, you may have an  
17   argument before the Court of Appeals, but my concern is that  
18   this wasn't properly raised before trial.

19           Maybe you'll get plain error review of that if he's  
20   convicted, but this -- it's about process for me more so now.

21           MR. SINGER: You're directing a verdict after you  
22   provided us with a charge, after I made my closing argument.  
23   You're now going to give them an instruction that essentially  
24   directs a verdict and I don't think it's fair or appropriate.

25           THE COURT: No I'm not you're making an argument

1 that I'm hearing for the first time. I'm trying to advise the  
2 jury coherently on a legal argument that you're essentially  
3 making to them about what constitutes transfer. It should at  
4 a minimum be addressed in the jury charges or raised as an  
5 issue. What you did is you put it in front of the jury  
6 without giving either me or the Government a chance to address  
7 the legal argument that you're making. That's pure and  
8 simple. You have acknowledged that you're trying to argue to  
9 the jury that the conversion of Bitcoin to cash does not  
10 constitute a transfer because the money --

11 MR. SINGER: It doesn't -- it doesn't make what  
12 Mr. Goklu did a money transmitting business.

13 THE COURT: Because it doesn't mean he transferred  
14 currency. That's what you argued to them and that's the  
15 problem I have. Now, I guess the Government can come back and  
16 say he transferred currency because he gave it to the Bitcoin  
17 owner.

18 MS. KASSNER: I don't think that's sufficient Your  
19 Honor. Frankly, I agree that the fact that -- we have never  
20 heard this argument before. We certainly could have presented  
21 the evidence differently if we knew that this was an issue. I  
22 think this is a secondary issue, but the fact that the portion  
23 of the jury instructions that defense counsel cited also refer  
24 to accepting currency for transfer and left no explanation --  
25 the Government raised its concern about that, but I think

1 hopefully the Court's actual instructions addressed that  
2 already.

3 THE COURT: Let's do this: Mr. Singer, you have  
4 your objection. I am going to add the language, one sentence  
5 in the money transmitting business instruction on page 24 that  
6 exchanging Bitcoin for U.S. currency can qualify as a transfer  
7 within the meaning of the statute and then the Government make  
8 its argument, but given will the circumstances and the late  
9 disclosure of this legal theory, the legal insufficiency of  
10 the alleged conduct, I feel that I have to just make a choice.

11 I suspect the other choice is to leave it alone and  
12 see if the jury is confused. That's the other way to deal  
13 with it in which case I would instruct them that it qualifies,  
14 but I don't think it makes sense. Either the Government is  
15 right that this is a viable theory or not, which if they're  
16 wrong, then they'll lose on appeal if it's not a viable theory  
17 and I've incorrectly instructed the jury. And that's what I'm  
18 going to do.

19 You have your objection, Mr. Singer.

20 MR. SINGER: Thank you.

21 MS. DIOUF: Your Honor, I was going to preview the  
22 language on rebuttal. So to the extent that defense counsel  
23 has suggested that another transfer to a third party is  
24 required for this count, that is not the law. It's not in the  
25 statute. In fact, Judge Chen will instruct you on that.

1 THE COURT: Yes, fine.

2 MR. SINGER: I will note my objection now to that  
3 argument.

4 THE COURT: You can, absolutely.

5 (Recess taken.)

6 THE COURT: Mr. Singer, I did want to address your  
7 argument that I'm directing the verdict by adding this  
8 instruction. I don't think that that's correct because I do  
9 say you can find it qualifies. I'm not directing them or  
10 telling them that they must find it qualifies which is  
11 different from how other terms are defined in the instructions  
12 or other instructions which say if you find the following, you  
13 should convict him or you should not convict him.

14 So I think in that regard trying to add qualifying  
15 language to address what I think will be a significant point  
16 because of your argument during summation and to make clear to  
17 the jury that they can find that the Bitcoin-to-cash  
18 conversion qualifies as a transfer. So just to make that  
19 clear on the record. We're going to get the jury now.

20 My law clerk is incorproationting that last change.  
21 What you'll get is a track change version of what's changed  
22 from yet to now and a clean version after the summations  
23 because I will ask you to quickly let me know if the  
24 instructions as revised are fine.

25 (Jury enters.)

1           THE COURT: Please be seated, everyone. My  
2 apologies, ladies and gentlemen. It took longer than I  
3 thought. So I didn't mean to keep you in the room for longer  
4 than I said, but we are now ready to hear the rebuttal  
5 statement of the Government.

6           Ms. Diouf, You may proceed.

7           MS. DIOUF: Members of the jury, you heard my  
8 colleague, Ms. Kassner, talk about the evidence today. You  
9 heard my colleague Ms. Kassner talk about the evidence today  
10 and I'm not going to repeat what she said. I just want to  
11 take a few more minutes of your time to talk about what  
12 defense counsel has told you. Now, the Government has the  
13 burden of proving its case beyond a reasonable doubt and we  
14 embrace that burden, but when defense counsel makes arguments  
15 about the evidence the Government presented, you should think  
16 through those arguments and see if they actually make sense in  
17 light of all of the evidence you have seen in this trial and  
18 rather than focusing on what actually happened. Defense  
19 counsel is asking you to use your imagination, but you don't  
20 need to because you have evidence.

21           I want to start with Count Two. Defense counsel is  
22 asking you to conclude that soliciting customers through an  
23 online advertisement and meeting them sometimes multiple times  
24 to exchange Bitcoin for a fee is not a business. Members of  
25 the jury, you know what a business is. The defendant charged



1 a fee. He exchanged money multiple times and the defendant  
2 himself calls it a business. And defense counsel talked to  
3 you about the definition of a money transmitting business.  
4 And this is important: To the extent that the defense counsel  
5 suggested that what the defendant was doing wasn't a transfer,  
6 Judge Chen will instruct you that exchanging Bitcoin for cash  
7 is a transaction.

8           And you heard from the Department of Financial  
9 Services and the Department of Treasury, those two witnesses,  
10 who told you that a money transmitting business includes  
11 people who regularly exchange Bitcoin for cash. And defense  
12 counsel says a lot of things; okay, he talked about how the  
13 defendant drove around John McCain. That's not relevant. The  
14 defendant had a money transmitting business. This was not a  
15 single, isolated transaction. It's something he did  
16 regularly. That's it. Welcome to Count One.

17           Now let's talk about money laundering. Defense  
18 counsel says that the defendant believed the Bitcoin he was  
19 exchanging from the undercover came from lawful activity.  
20 Well -- and that it wasn't from illegal drug sales. Let's  
21 take a step back and walk through a few things. Let look at  
22 what the defendant heard, what he did, what choices he made,  
23 what he believed. Let's look at the December 2018 meeting  
24 between the defendant and the undercover. They meet, they  
25 start transacting. They agree upon \$20,000. The undercover

1 tells the defendant that his inability to meet with him the  
2 week before caused problems for the undercover and his  
3 business. The undercover has a lot of people to pay and  
4 they're not great people. The undercover asked the defendant  
5 if he can exchange \$100,000 in January, in the new year. The  
6 defendant has a choice here. What does he do? He responds,  
7 okay, and he offers to launder \$50,000 more for the undercover  
8 in that same meeting.

9           On January 4, 2019 they meet again. The undercover  
10 says he has insane amounts of money coming in. These college  
11 kids can't get enough. The undercover offers the defendant  
12 oxycodone. The defendant responds, don't bring those, just  
13 bring regular street things, which by the way shows that even  
14 if he didn't know exactly what oxycodone was, he knew it's  
15 some kind of a drug. Also Adderall, oxycodone, pills. That  
16 is not drug lingo. He understands it.

17           Again, the defendant has a choice and what does he  
18 do? He agrees to meet the undercover again and launder more  
19 of his drug money. A few days later January 30th, the  
20 defendant tells the undercover that he does not want to  
21 convert \$100,000 at a time. He asks the undercover if they  
22 can split the transaction. The defendant says because with  
23 100 if we get in trouble, we are both fucked up. 40 is okay.  
24 The defendant isn't saying I won't launder \$100,000 for you.  
25 No he's saying \$100,000 at one time is too much. Let's break

1 it up. Why? To conceal where this money is coming from, to  
2 launder it.

3 Defense counsel argues that the defendant didn't  
4 know the undercover's business is illegal. Well, let's look  
5 at what else the undercover tells the defendant. He tells the  
6 defendant he's worried about people he knows in California  
7 shooting at them in the car. He tells the defendant he's  
8 worried about having his head chopped off if he doesn't pay  
9 people on time. The people he works for aren't good people.  
10 Does this sound like a legal business to you? What type of a  
11 person is worried about being killed by their colleagues?  
12 Drug dealers.

13 And the defendant has a choice here too, but what  
14 did he do? He continued to launder the undercover's Bitcoin  
15 and look at how the defendant describes his business partners.  
16 He told the undercover that one of his partners was caught  
17 laundering money for a drug dealer. He told the undercover  
18 that one of his partners gets money whose job is hookers.  
19 He's a pimp. And the defendant talks about the money counter.  
20 The defendant tells the undercover he has a money counter in  
21 case he is getting money from somewhere bad. People who get  
22 money from legitimate sources don't need to worry about  
23 counterfeit bills.

24 And defense counsel's also argues that someone might  
25 use the defendant's service because it's faster and more

1 convenient about cab. Nothing about the defendant's service  
2 is quick or convenient. Just look at the messages between the  
3 defendant and the undercover.

4 Even after they had a relationship it took days,  
5 days, to set up a meeting and sometimes when the undercover  
6 got there, the defendant didn't have the agreed-upon amount.  
7 And defense counsel talks about check cashing businesses and  
8 Paychex, and how that's fast and convenient. Yeah, they are.  
9 But you know what they also have? Your name on the paycheck.

10 The defendant's type of service wasn't cheap, it  
11 wasn't fast, it wasn't reliable and it certainly wasn't  
12 convenient. And defense counsel also talks about how Coinbase  
13 is insured. Exchanging Bitcoin for cash in the back of a  
14 parked car in a Wendy's parking lot is certainly not insured.  
15 Legitimate exchangers do not operate out of Starbucks and a  
16 Wendy's parking lot. It's dangerous.

17 The only reason to use a service like the  
18 defendant's is to conceal where the money was coming from and  
19 who would do that? Drug dealers. And defense counsel makes a  
20 big deal about the fact that the undercover agent didn't  
21 explicitly talk about drugs at first and that the transactions  
22 before that aren't illegal, but that doesn't matter. And this  
23 is really important, the only thing the Government needs to  
24 prove that once, just once, the defendant knew that the money  
25 he was converting came from illegal drug proceeds and that the

1 defendant did it anyway.

2 Judge Chen will instruct you that one way of knowing  
3 is closing your eyes to what's around you. That's enough for  
4 the defendant to be guilty. We just went over what the  
5 defendant knew before the December and January transactions  
6 and let's look at what the defendant definitely knew leading  
7 up to the last transaction when he was arrested. Let's look  
8 at the text exchange between the undercover and the defendant  
9 that took place in April 2019 and this is Government Exhibit  
10 507 at page three.

11 (Exhibit published.)

12 MS. DIOUF: April 22nd. Pat tells the defendant he  
13 needs \$100,000. The defendant responds with a speech. I'm  
14 not a money laundering guy. The defendant is saying, I'm  
15 worrying about being accused of money laundering if I exchange  
16 that amount of money for you. He knows the undercover is a  
17 drug dealer, but he didn't walk away. He responds: I can do  
18 only \$49,999. This is a very specific amount. Why? Not  
19 because he thought he wasn't laundering that amount of money,  
20 but he didn't think he would get caught laundering a lower  
21 amount.

22 The defendant is saying he knows what money  
23 laundering is and is aware that people use his service to  
24 launder money and conceal where it came from. That was on  
25 April 22, 2019. And, now, let's look at Government Exhibit

1 228, the defendants signal messages at page 12.

2 (Exhibit published.)

3 MS. DIOUF: This is message thread 12. This thread  
4 starts a few days after the defendant's speech to the  
5 undercover. This is on April 26th. While the defendant is  
6 arranging to meet the undercover, he's negotiating yet another  
7 transaction with someone else who he also thinks is a drug  
8 teller. Remember what happens in this thread? Let's skip  
9 ahead to page 20 in this Government Exhibit.

10 (Exhibit published.)

11 MS. DIOUF: The deal goes south. They're fighting.  
12 They're insulting each other. Out of nowhere the defendant  
13 says, I'll report you to NYPD. I'm contacted by NYPD to mark  
14 drug dealers. You will be reported son of a bitch. How does  
15 the customer respond? Let's look at page 21 of this exhibit:  
16 Good luck. You don't have my name. All you have is my burner  
17 cellphone number.

18 The defendant knows that people use his service to  
19 remain anonymous, to conceal where their money is coming from.  
20 And let's look at the last page of this thread, page 22 of  
21 this exhibit. This is why I split my transactions, you fool.  
22 I did eight transactions, all over 3,000 and still got to wash  
23 another 29K. Only a matter of time before you snitch on the  
24 wrong person and get killed.

25 These are the types of people that the defendant is

1 meeting in the parking lots of Wendy's and Starbucks. He  
2 knows that people use his business to launder drug money. He  
3 knows they use services like his to hide where their money is  
4 coming from. And, four days later, he meets the undercover to  
5 launder their agreed-upon \$49,999. They get into the  
6 defendant's car. They start counting cash. The defendant  
7 asks how's business. It's booming. The undercover tells him  
8 his real money is not from marijuana, but from Adderall and  
9 pills. The defendant responds. He asks more about the  
10 undercover's marijuana business. The undercover tells him  
11 it's risky; that his buddy was arrested by the feds just the  
12 other day and the defendant responds: He says, oh, you got to  
13 be in California. You go out, it's trouble, right?

14           The defendant knows the undercover's business is  
15 illegal and the defendant has another choice here. What  
16 choice does he make? He offers to launder another \$25,000 and  
17 the defendant would have finished that deal except he was  
18 arrested.

19           As jurors, the most important skill you bring with  
20 you to this courtroom is your common sense. Does defense  
21 counsel's claim that the defendant didn't know he was  
22 converting drug money make sense? It doesn't. I submit to  
23 you that the evidence establishes beyond a reasonable doubt  
24 that the defendant knew he was laundering drug money. As I  
25 said, Judge Chen will instruct you that one type of knowing is

1 closing your eyes to what's happening. And that means the  
2 defendant is guilty.

3 The defendant is charged with money laundering and  
4 operating a money remitting business without a license and I  
5 submit that is what we have proved beyond a reasonable doubt.  
6 Defendant's counsel wants you to imagine away the overwhelming  
7 evidence in this case.

8 At the beginning of this trial I stood before you  
9 and I told you that there will come a time when I will ask you  
10 to return the only verdict that is consistent with the  
11 evidence and your common sense. That is where we are now. We  
12 ask that you find the defendant, Mustafa Goklu, guilty. Thank  
13 you.

14 THE COURT: Thank you, very much. Have a seat. So  
15 ladies and gentlemen, we're going to take and I promise, a  
16 five-minute break because we need to get copies of the jury  
17 instructions here in front of us. So we'll give you five  
18 minutes and so rather than have you sit here we'll let you go  
19 back to the jury room, but as soon as you come back out I will  
20 instruct you on the law and you can begin your deliberations.  
21 Bear with us another minute and thank you. Don't talk about  
22 the case.

23 THE COURTROOM DEPUTY: All rise.

24 (Jury exits.)

25 THE COURT: Quickly take a look at the red line



1 version and let us know if there are any issues. Everyone now  
2 has a track change version as well as a clean version and I've  
3 asked the parties to let me know if the current version is  
4 fine for reading to the jury.

5 And noting the defense's objection to the language I  
6 added about transfer.

7 MR. SINGER: This is consistent -- these  
8 instructions are consistent with the discussions that we had  
9 of yesterday's part of the charge conference and this morning.  
10 The objections that I previously noted about yesterday and  
11 today stand, but otherwise I believe that this reflects the  
12 rulings of the Court.

13 THE COURT: Thank you, Mr. Singer.

14 MS. KASSNER: This looks fine from the Government's  
15 perspective.

16 THE COURT: So we're going to go ahead and get the  
17 jury.

18 (Pause in proceedings.)

19 (Jury enters.)

20 THE COURT: Please be seated everyone. I'm sure,  
21 ladies and gentlemen, that you've now figured out that five  
22 minutes in the courtroom is the like the last two minutes of a  
23 basketball game. It lasts a whole longer than the actual  
24 time. Thank you for your patience.

25 I'm going to now instruct you on the law.

1 Fida, I will give you a minute.

2 We're going to project it on the overhead so you can  
3 follow along. As I said to you earlier or actually I didn't,  
4 I don't think, you will get a copy of the written instructions  
5 for your deliberations so you don't need to worry about  
6 writing down everything that's in these instructions but  
7 obviously if you want to take notes you can do so.

8 All right. Ladies and gentlemen -- I'm going to dim  
9 the lights which everyone if everyone promises to stay awake.

10 Ladies and gentlemen of the jury, now that you have  
11 heard all of the evidence in the case as well as the arguments  
12 of the lawyers, it is my duty to give you instructions as to  
13 the law applicable in this case. We have are all grateful to  
14 you for the close attention you have given to this case thus  
15 far. I ask that you continue to do so as I give you these  
16 instructions.

17 As you know, the defendant Mustafa Goklu is charged  
18 with money laundering and the operation of an unlicensed money  
19 transmitting business. The defendant has pleaded not guilty  
20 to all charges, my instructions will be in three parts.  
21 First, I will instruct you regarding the general rules that  
22 define and govern the duties of a jury in a criminal case such  
23 as this.

24 Second, I will instruct you as to the particular  
25 crimes charged in this case and the specific elements that the

1 Government must prove with respect to each crime. Third, I  
2 will give you some general rules regarding your deliberations.  
3 First, general instructions, role of the Court and jury.

4

5 (Continued on the following page.)

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1 (Continuing)

2 THE COURT: Let me start by restating our respective  
3 roles as judge and jury. Your duties, as I mentioned in my  
4 opening instructions, is to find the facts from all the  
5 evidence in this case. You are the sole judges of the facts  
6 and it is for you and you alone to determine what weight to  
7 give the evidence to resolve such conflicts as may have  
8 appeared in the evidence and to draw such inferences as you  
9 deem to be reasonable and warranted from the evidence.

10 My role is to instruct you on the law. You must  
11 apply the law in accordance with my instructions to the facts  
12 as you find them. I remind you of your sworn obligation to  
13 follow the law as I describe it to you whether you agree with  
14 it or not. You should not be concerned about the wisdom of  
15 any rule of law that I state regardless of any opinion you may  
16 have about what the law may be or should be, it would be a  
17 violation of your oaths as jurors to base your verdict upon  
18 any other view of the law than the one given you to in these  
19 instructions.

20 If any of the lawyers have stated a legal principle  
21 that differs from any that I state to you in my instructions,  
22 you must be guided solely by what I instruct you about the  
23 law. You should not single out any one instruction as alone  
24 stating the law, but consider my instructions as a whole.  
25 Because it is your role, not mine, to determine the facts. I

1 did not state or imply any view about how you should decide  
2 the facts of this case. You should not conclude from anything  
3 I have said or done during this trial, including these  
4 instructions, that I have an opinion about the facts or the  
5 merits of this case.

6 For example, occasionally I may have asked a witness  
7 or a lawyer questions. These questions were only intended for  
8 clarification to expedite matters and not to suggest any  
9 opinions on my part as to the verdict you should reach or  
10 whether any of the witnesses may have been more credible than  
11 any other witnesses. You should not attach -- you should  
12 attach no special significance to my question simply because I  
13 asked them.

14 A.: The quality of the Government and the Defense  
15 Before the Court.

16 The fact that the Government is prosecuting this  
17 case, on behalf of the United States of America, should not  
18 affect your evaluation of the evidence and tasks before you.  
19 The Government is entitled to no greater consideration than  
20 the defendant. By the same token, however, the Government is  
21 entitled to no less consideration. All parties, whether the  
22 Government or individuals, are equal before the law and are  
23 entitled to equal considerations.

24 I think there is an and missing there.

25 B.: No Sympathy, Fear, Prejudice or Basis.

1           It is your responsibility to decide the facts with  
2 complete fairness and impartiality and without any bias or  
3 prejudice or sympathy for any party. You must perform your  
4 duties as jurors with complete fairness and impartiality. You  
5 must carefully and impartially consider the evidence. Follow  
6 the law as I've given it to you, or as I give it to you, and  
7 reach a just verdict regardless of the consequences. The  
8 crucial question you must ask yourselves as you sit through  
9 the evidence is, has the Government proven the guilt of the  
10 defendant beyond a reasonable doubt.

11           It is fair for you alone to decide -- sorry. It is  
12 for you alone to decide whether the Government has met the  
13 burden to prove each element of the crime charge solely on the  
14 basis of the evidence before you and the law as I charge us.  
15 If you should find that the Government has met its burden of  
16 proving the defendant's guilt beyond a reasonable doubt, you  
17 may render a verdict of guilty without concern for sympathy or  
18 any other reason.

19           On the other hand, if you have a reasonable doubt as  
20 to the defendant's guilt, you should not hesitate because of  
21 sympathy, fear, prejudice, or basis for or against anyone to  
22 find the defendant not guilty. In reaching your decision as  
23 to whether the Government has sustained the burden of proof,  
24 you may not consider any personal feelings you may have about  
25 the defendant's race, ethnicity, national origin, sex or age

1 or that of any witness or anyone else involved in this case.  
2 All persons charged with a crime are entitled to the same  
3 presumption of innocence. The Government has the same burden  
4 of proof with respect to all persons.

5 As with any other individual charged with a crime,  
6 the issue is whether the Government has met its burden of  
7 demonstrating each and every element of the offense beyond a  
8 reasonable doubt as to the defendant.

9 C.: Function of the Indictment and What Is Not In  
10 Evidence.

11 The defendant has been charged in an indictment with  
12 violating federal laws. The Government -- the indictment is  
13 merely a statement of the charges against the defendant. The  
14 indictment is not itself evidence. Nor does it create an  
15 inference of guilt. It is an accusation and nothing more.

16 D.: The Presumption of Innocence and Burden of  
17 Proof.

18 As previously stated, the defendant has entered a  
19 plea of not guilty as to all the charges against him in the  
20 indictment. The defendant is presumed to be innocent of the  
21 charges against him. And that presumption alone, unless over  
22 come, is sufficient to acquit him. The legal presumption of  
23 innocence remains in force until such time, if ever, that you  
24 as a jury is satisfied that the Government has proven the  
25 guilt of the defendant as to each element of any particular

1 crime charged beyond a reasonable doubt.

2           The Government alone bears the burden to prove the  
3 defendant's guilt as to each element of the charges beyond a  
4 reasonable doubt. The law never imposes upon a defendant in a  
5 criminal case the burden or duty of calling any witnesses or  
6 producing any evidence. Your task in deliberations is not to  
7 decide between guilty and innocence, it is to decide between  
8 guilty and not guilty based on the evidence or lack of  
9 evidence.

10           Indeed, the presumption of innocence alone requires  
11 you to acquit the defendant of the charge you are considering  
12 unless you are unanimously convinced that the Government has  
13 met its burden to prove that is he guilty of the charged  
14 beyond a reasonable doubt.

15           Now, let me pause for one moment. Just because, as  
16 I often say, the trip is always faster when you know where you  
17 are going. So we have 29 pages in total to get through and we  
18 are now on Page 6. So for those of you that like to count  
19 pages, we have about 23 to go.

20           E.: Reasonable Doubt.

21           You maybe wondering what is reasonable doubt. The  
22 words almost define themselves. It is doubt based upon reason  
23 and common sense. It is a doubt that a reasonable person has  
24 after carefully weighing all of the evidence or lack of  
25 evidence. It is a doubt that would cause a reasonable person



1 to hesitate to act in a matter of the highest importance in  
2 his or her life.

3 Proof beyond a reasonable doubt must therefore be  
4 proof of such a convincing character that a reasonable person  
5 would not hesitate to rely and act upon it in the most  
6 important of his own affairs. A reasonable doubt is not  
7 caprice or whim. It is not speculation or suspicion. It is  
8 not an excuse to avoid the performance of an unpleasant duty.  
9 And it is not sympathy.

10 The law does not require that the Government prove  
11 guilt beyond all possible doubt. Proof beyond a reasonable  
12 doubt is sufficient to convict. If after fair and impartial  
13 consideration of the evidence you are satisfied beyond a  
14 reasonable doubt of the guilt of the defendant as to a  
15 particular charge, you should find defendant guilty of that  
16 charge. On the other hand, if after fair and impartial  
17 consideration of the evidence or lack of evidence concerning a  
18 particular charge, you have a reasonable doubt as to the  
19 defendant's guilt, you must find the defendant not guilty of  
20 the charge.

21 F.: Punishment.

22 Under your oaths as jurors, you are not to consider  
23 the question of the possible punishment the defendant may  
24 receive if he is convicted. The duty of imposing a sentence,  
25 if necessary, rest exclusively on me. You cannot allow

1 consideration of the punishment that may be imposed upon the  
2 defendant, if he is convicted, to influence your verdict in  
3 any way or to enter into your deliberations in any sense.  
4 Your duties as jurors is to weigh the evidence in this case  
5 and to determine whether or not the defendant is guilty beyond  
6 a reasonable doubt solely upon the basis of the evidence  
7 before you.

8           G.: The Definition of Evidence and Meaning of  
9 Objections.

10           I will now talk to you about what evidence is and  
11 how you should consider it. You must determine the facts in  
12 this case based solely on the evidence presented and those  
13 inferences which can be reasonably drawn from the evidence  
14 presented. The evidence in this includes the sworn testimony  
15 from the witnesses and documentary exhibits that have been  
16 received in evidence by me and the stipulations by the  
17 parties.

18           As I explained at the beginning of the case, certain  
19 things are not evidence and you should disregard them in  
20 deciding what the facts are in this case. As I have already  
21 instructed, the indictment in this case is not evidence. The  
22 arguments and statements of the lawyers, including the opening  
23 statements and closing arguments of the lawyers, are not  
24 evidence. If anything the lawyers said about the evidence in  
25 their statements or arguments conflicts with your own memory

1 of the evidence, it is your recollection that governs.

2 Objections to questions or exhibits are not evidence. Also  
3 statements that attorneys make while objecting to questions  
4 and exhibits are not evidence.

5 The lawyers have a duty to their clients to object  
6 when they believe something is improper under the rules of  
7 evidence. You should not be influenced by any such objection.  
8 If I sustained an objection, you must ignore the question or  
9 exhibit, and must not try to guess what the answer might have  
10 been or the exhibit might have contained. If I overruled an  
11 objection, treat the answer or exhibit like any other.

12 Anything you may have seen or heard outside of the  
13 courtroom is not evidence. Any testimony or exhibit that has  
14 been excluded, stricken, or that you have been instructed to  
15 disregard is not evidence. Transcripts of audio recordings is  
16 not evidence, as I told during the trial. During the trial  
17 you heard audio recordings and received written transcripts to  
18 aid you in listening to these recordings. The transcripts  
19 themselves are not evidence. Therefore, you may only consider  
20 what you heard and understood the contents of the recording to  
21 be. If you perceived the difference between the recording and  
22 the transcript, you must rely only on what you heard because  
23 the transcripts are not evidence.

24 Finally, anything I have said or done during these  
25 proceedings is not evidence or any indication as to the

1 defendant's innocence or guilt.

2 H.: Direct and Circumstantial Evidence.

3 As I mentioned in my opening instructions, there are  
4 generally speaking two types of evidence, direct and  
5 circumstantial. You may use both types of evidence in  
6 reaching your verdict in this case. The law makes no  
7 distinction between the weight to be given to these two types  
8 of evidence and it is for you to give weight to any such  
9 evidence as you see appropriate. You must base your verdict  
10 on a reasonable assessment of the all of the evidence in the  
11 case.

12 Direct evidence is testimony from a witness about  
13 something he or she knows by virtue of his or her own senses.  
14 Something he or she has seen, felt, touched, tasted, or heard.  
15 Circumstantial evidence on the other hand is proof of a chain  
16 of circumstances that point to the existence or nonexistence  
17 of certain facts.

18 A simple example of circumstantial evidence is as  
19 follows: Suppose you came to court on a day when the weather  
20 was clear, sunny and dry. However, after several hours in the  
21 courtroom where there are no windows, you observe a person  
22 come in wearing a wet raincoat and another person shaking a  
23 wet umbrella. Without you ever looking outside you would not  
24 have direct evidence that it rained, but you might infer from  
25 these circumstances that while you were sitting in court it

1   rained out doors. That is all there is to circumstantial  
2   evidence.

3               On the basis of reason, experience, and common  
4   sense, you infer the existence or nonexistence of a fact from  
5   one or more established facts. You are permitted to draw from  
6   the facts that you find to have been proved such reasonable  
7   inferences as would be justified in light of your experiences.  
8   Inferences are deductions or conclusion that reason and common  
9   sense lead you, the jury, to draw from the facts that have  
10  been established by the evidence in this case. Use your  
11  common sense in drawing inferences.

12              However, you are not permitted to engage in mere  
13  guesswork or speculation. There are times when different  
14  inferences maybe drawn from the facts whether proved by direct  
15  or circumstantial evidence. Perhaps the Government asked you  
16  to draw one and the defendant asked you to draw another. It  
17  is for you and you alone to decide what inferences you will  
18  draw, whether based on a -- whether based on direct or  
19  circumstantial evidence or upon the logical, reasonable  
20  inferences drawn from such evidence, you must be satisfied of  
21  the guilt of the defendant beyond a reasonable doubt before  
22  you may convict.

23              No significance should be attached to the fact that  
24  a document or other exhibit or witness testimony was  
25  introduced by one party rather than by the other. Any party

1 is entitled to the benefit of any evidence tending to  
2 establish its contentions, even though such evidence may have  
3 come from witnesses or documents introduced by another party.

4 I.: Witness Credibility.

5 In deciding what the facts are in this case, you  
6 must consider all of the evidence that has been offered and  
7 must decide which testimony to believe and which testimony not  
8 to believe. You are the sole judges of credibility of the  
9 witnesses and the weight their testimony deserves. There is  
10 no one single way to determine credibility.

11 In your daily lives you make such decisions  
12 regularly. The same standards, as well as your common sense,  
13 should guide you here. Your determination of the issue of  
14 credibility very largely must depend upon the impression that  
15 a witness made upon you as to whether or not that witness was  
16 telling the truth or giving an accurate -- giving you an  
17 accurate version of what occurred.

18 You may choose to disbelieve all or part of any  
19 witnesses testimony. In deciding and to what extent to  
20 believe a witnesses testimony, you may consider any number of  
21 factors, including the following:

22 The witness's opportunity to see, hear, and know  
23 about the events he or she described. The witness's ability  
24 to recall and describe those things accurately. The witness's  
25 way of testifying. Was a witness candid and forthright or did

1 the witness seem if he or she was hiding something, being  
2 evasive, or suspect in some way. How the witness's testimony  
3 on direct examination compared with how the witness testified  
4 on cross examination. The reasonableness of the witnesses  
5 testimony in light of all the other evidence in this case.  
6 Whether the witness had any possible bias, any relationship to  
7 a party, any motivate to be untruthful, or any possible  
8 interest in the outcome of the trial. And whether the  
9 witness's testimony was contradicted by his or her other  
10 testimony by what that witness said or did on a prior  
11 occasion, by the testimony of other witnesses or by other  
12 evidence.

13           Inconsistencies or discrepancies in the testimony of  
14 a witness or between the testimony of different witnesses may  
15 or may not cause you to discredit such testimony. In weighing  
16 the effects of an inconsistency, you should consider whether  
17 it relates to an important fact or an unimportant detail. And  
18 whether in your view, the inconsistency results from an  
19 innocent error or an intentional falsehood. If you find that  
20 any statement made by a witness on the stand is false in whole  
21 or in part, you may disregard the particular part you find to  
22 be false or you may disregard his or her entire testimony as  
23 not worthy of belief.

24           In evaluating the credibility of the witnesses, you  
25 should take into account evidence that the witness who

1 testified may benefit in the some way from the outcome of this  
2 case. Such an interest in the outcome creates a motivate on  
3 the part of witness to testify falsely and may sway the  
4 witness to testify in a way that advances his own interest.  
5 Therefore, if you find that any witness whose testimony you  
6 are considering, may have an interest in the outcome of the  
7 trial, then you should bear that factor in mind when  
8 evaluating the credibility of his or her testimony and  
9 evaluate it with great care.

10           This is not to suggest that ever witness who has an  
11 interest in the outcome of the case will testify falsely.  
12 There are many people who no matter what their interest in the  
13 outcome of a case maybe would not testify falsely. It is for  
14 you to decide based on your own perceptions and common sense  
15 to what extent, if at all, the witness's interest has affected  
16 or colored his or her testimony.

17           J.: Testimony of the Defendant Right Not To  
18 Testify.

19           The defendant did not testify in this case. Under  
20 the Constitution, the defendant has no obligation to testify  
21 or to present any other evidence because it is the  
22 Government's burden to prove his guilt beyond a reasonable  
23 doubt. You may not attach any significance to the fact that  
24 the defendant did not testify. Nor may you draw any adverse  
25 inference against the defendant because he did not take the



1 witness stand. In your deliberations, in the jury room, you  
2 may not consider this decision against the defendant in any  
3 way.

4 K.: Testimony of Law Enforcement Witnesses or  
5 Officers.

6 During the trial you heard testimony from law  
7 enforcement officers. The fact that a witness is or was  
8 employed as a law enforcement official does not mean that his  
9 or her testimony is deserving of more or less consideration or  
10 greater or lesser weight than that of any ordinary witness.

11 It is for you decide after weighing all the  
12 evidence, and in light of the instructions I have given you  
13 about the factors relevant to determining the credibility of  
14 any witness, whether to accept the testimony of a law  
15 enforcement witness and what weight, if any, it deserved.

16 I.: Stipulations of Fact.

17 A stipulation is an agreement among the parties that  
18 a certain fact is true. The attorneys for the Government and  
19 the attorneys for the defendant have entered into a number of  
20 stipulations concerning facts that are relevant to this case.  
21 As you may recall, those were read into the record during the  
22 trial. When the attorneys on both sides stipulate and agree  
23 as to the existence of a fact, you must accept the stipulation  
24 as evidence regard that fact as proved.

25 M.: Interviewed Witnesses.

1           During the course of the trial you heard testimony  
2   that the witnesses interviewed -- that the attorneys  
3   interviewed witnesses when preparing for the trial. You Must  
4   not draw any unfavorable inference from that fact. On the  
5   contrary, attorneys are obliged to prepare their cases  
6   thoroughly as possible and in the discharge of that  
7   responsibility, properly interview witnesses in preparation  
8   for the trial.

9           N.: Summary Evidence

10           Some exhibits were admitted into evidence in the  
11   form of charts and summaries. Those charts and summaries were  
12   admitted in order to save the time of reviewing voluminous  
13   records and to avoid inconvenience. You should consider these  
14   charts and summaries the same way you would any other  
15   evidence. However, the charts and summaries used in closing  
16   arguments are not in evidence unless specifically admitted  
17   into evidence. These charts and summaries were shown to you  
18   in order to make the evidence more meaningful and to aid you  
19   in considering the evidence. They are no better than the  
20   documents upon which they are based and are not themselves  
21   independent evidence.

22           And let me just say, because those charts or the  
23   PowerPoint, for example, used during the Government's  
24   summation is not evidence. It will not be sent back to you  
25   along with the evidence to the jury room for your

1 deliberations.

2           Therefore, you are to give no greater consideration  
3 to these charts or summaries than you would give to the  
4 evidence upon which you are based.

5           And let me just say, also, there are some charts or  
6 summaries that were introduced and those you can consider as  
7 evidence.

8           It is for you to decide whether the charts,  
9 schedules, or summaries correctly present the information  
10 contained in the testimony and in the exhibits on which they  
11 were based. You are entitled to consider the charts,  
12 schedules, and summaries if you find that they are of  
13 assistance to you in analyzing the underlining evidence.

14           O.: Undercover Agents.

15           You have heard testimony from an undercover agent  
16 who is employed by the Drug Enforcement Administration.  
17 Sometimes the Government uses undercover agents who may  
18 conceal their true identities in order to investigate  
19 suspected violations of the law. There's nothing improper or  
20 illegal about the Government using those techniques, so long  
21 as the defendant's rights are not violated. And the defendant  
22 has not claimed that his rights were violated in this case.

23           Indeed certain types of evidence would be extremely  
24 difficult to detect without the use of undercover agents and  
25 informants. Whether or not you approve of the use of an

1 undercover agent to detect unlawful activities is not to enter  
2 into your deliberations in any way.

3 P.: Particular Investigative Techniques.

4 You are instructed that there is no legal  
5 requirement that the Government used any specific  
6 investigative techniques or pursued every investigative lead  
7 to prove its case. As I have said before, your concern is to  
8 determine whether or not based on the evidence admitted at  
9 trial or the lack of evidence the defendant's guilt has been  
10 proven beyond a reasonable doubt.

11 Expert Witnesses.

12 You have heard the testimony of -- and I think it  
13 was an expert witness in this case. Ordinarily, witnesses are  
14 restricted to testifying concerning matters of fact. There  
15 are occasions, however, when there is some technical or other  
16 specialized area of knowledge that will assist the jury in  
17 deciding a disputed fact. On those occasions, a witness who  
18 is specially qualified by training, knowledge, experience, or  
19 education, maybe called upon to testify about some evidence or  
20 facts in issue in the form of an opinion.

21 And for you page counters, we are up to 14. So we  
22 are more than halfway through.

23 Your role in judging credibility applies to experts  
24 as well as other witnesses. You should judge this testimony  
25 in the same way you judge the testimony of any other witness.

1 The fact that such a person has given an opinion does not mean  
2 that you are required to accept it. In weighing the  
3 testimony, you should consider the factors that generally bear  
4 upon the credibility of a witness as well as the expert  
5 witness education, training, and experience. The soundness of  
6 the reasons given for the opinion and all other evidence in  
7 the case. You should consider the expert opinions which were  
8 received in evidence in this case and give them as much or  
9 little weight you think they deserve.

10 If you should decide that the opinion of an expert  
11 was not based on sufficient education, experience, or  
12 sufficient data, or if you should conclude that the trust  
13 worthiness or credibility of an expert is questionable, for  
14 any reason, then you may disregard the opinion of the expert.  
15 Furthermore, if the opinion of the expert was outweighed in  
16 your judgment by other evidence in the case, then you must  
17 disregard the opinion of the expert entirely or in part. On  
18 the other hand, if you find the opinion of an expert is based  
19 on sufficient data, education, training, and experience, and  
20 the other evidence does not give you reason to doubt the  
21 expert's conclusions, you would be justified in placing gray  
22 line on the experts testimony.

23 R.: Evidence Pursuant to Lawful Procedure.

24 You have heard testimony that interactions between  
25 law enforcement agents and the defendant were audio recorded.

1 In addition, you have seen evidence obtained pursuant to a  
2 search of a cellular telephone and laptop computer. You have  
3 also seen evidence obtained pursuant to hidden recording  
4 devices.

5 I'm going to pause for a moment.

6 Government, is that correct, that there was such  
7 evidence?

8 MS. KASSNER: Yes, Your Honor.

9 THE COURT: Okay. Sorry.

10 This evidence was obtained lawfully. The use of  
11 these procedures to gather evidence is perfectly lawful and  
12 the Government has the right -- of course, that's true. I'm  
13 so sorry. I was thinking about it in a different context in  
14 terms of hidden recording devices. That is, of course,  
15 correct. The use of these procedures to gather evidence is  
16 perfectly lawful and the Government's has a right to use such  
17 evidence in this case.

18 The wisdom of the law and law enforcement policies  
19 and procedures are not your concern. Your job is to -- is  
20 only to decide whether the Government has proved that the  
21 defendant committed the crime charged in the indictment or the  
22 crimes charged in the indictment.

23 S.: Limiting Instructions.

24 You have seen and heard evidence that relates to  
25 activities and transactions that the defendant conducted with

1 individuals other than the undercover law enforcement agent,  
2 including text message communications between the defendant  
3 and other individuals. Testimony about surveillance conducted  
4 of the defendant's interactions with other individuals and the  
5 defendant's statements about his transactions with other  
6 individuals. You are to consider such evidence only with  
7 respect to Count two, which charges the defendant with a crime  
8 of operating an unlicensed money transmitting business.

9           However, to the extent that any of the defendant's  
10 communications with other individuals relate to a concern of  
11 being detected by law enforcement, you may properly consider  
12 such communications with respect to both Count one, charging  
13 the defendant with money laundering as well as Count two.

14           Okay. Part II: Instructions Relating to the  
15 Alleged Crimes.

16           I will now turn to the second part of my  
17 instructions and instruct you as to legal elements of the  
18 criminal counts the Government has alleged.

19           A.: Venue.

20           Venue refers to the location of the charged crimes.  
21 As to each of the charged crimes, you must consider whether  
22 any act in furtherance of the crime occurred within the  
23 Eastern District of New York. The Eastern District of New  
24 York encompasses Brooklyn, Queens, and Staten Island in New  
25 York City, and Nassau and Suffolk Counties on Long Island. To

1 establish a venue for a charged crime is appropriate in the  
2 Eastern District of New York, the Government must prove that  
3 some act in furtherance of the crime occurred in this  
4 district.

5           The Government need not prove that the entire crime  
6 was committed in this district or that the defendant, himself,  
7 was present in this district. I note that on this issue and  
8 only on this issue, the Government need not prove venue beyond  
9 a reasonable doubt, but only by a preponderance of the  
10 evidence.

11           A preponderance of the evidence means simply to  
12 prove that the fact is more likely true than not true. The  
13 Government must prove that it is more likely than not that  
14 some act in furtherance of the charge you are considering  
15 occurred in the Eastern District of New York. If the evidence  
16 appears to be equally balanced or if you cannot say upon which  
17 side it weighs heavier, you must resolve this question against  
18 the Government.

19           Let me stress, the preponderance of the evidence  
20 standard applies only to the question of venue. As I have  
21 instructed you, the Government alone must prove all other  
22 elements of the crimes charged beyond a reasonable doubt.

23           B.: Dates Approximate.

24           The indictment charges in or about and between  
25 certain dates, the proof need not establish with certainty the



1 exact date of an alleged offense. It is sufficient if the  
2 evidence establishes beyond a reasonable doubt that an offense  
3 was committed on a date reasonably near the dates alleged.

4 C.: Knowledge and Intent.

5 Because each count in the indictment implicates the  
6 concepts of knowledge and intent, I will instruct you at the  
7 outset about these principles. As a general rule, the law  
8 holds persons accountable only for conduct they intentionally  
9 engaged in. Thus, before you can find a defendant guilty, you  
10 must be satisfied that the defendant was acting knowingly and  
11 voluntarily.

12 Knowingly:

13 A person acts knowingly when he contacts  
14 intentionally and voluntarily and not because of ignorance,  
15 mistake, accident, or carelessness. Whether a defendant acted  
16 knowingly may be proven by his words and conduct and by all of  
17 the facts and circumstances surrounding the case.

18 II.: Intentionally.

19 A person acts intentionally when he acts  
20 deliberately and purposefully. That is, a defendant's acts  
21 must have been the product of his conscious objective decision  
22 rather than the product of a mistake or an accident.

23 (Continued on the following page.)  
24  
25

1 (Continuing.)

2 THE COURT: These issues of knowledge and intent  
3 require you to make a determination about the defendant's  
4 state of mind, something that rarely can be proven directly.  
5 A wise and careful consideration of all the circumstances of  
6 the case may, however, permit you to make such a determination  
7 as to the state of mind of the defendant.

8 Indeed, in your every day affairs you are frequently  
9 called upon to determine a person's state of mind from his or  
10 her words and actions in a given circumstance. You are asked  
11 to do the same here.

12 D, the charges in the indictment. The defendant,  
13 Mustafa Goklu, is formally charged in an indictment. As I  
14 instructed you at the beginning of this case, an indictment is  
15 a charge or accusation. You will not be provided a copy of  
16 the indictment during your deliberations because the  
17 indictment is merely a statement of the charges and is not  
18 itself evidence. The indictment in this case contains two  
19 separate counts against the defendant. You must as a matter  
20 of law consider each count of the indictment separately and  
21 you must return a separate verdict for each count.

22 Count One of the indictment charges the defendant  
23 with money laundering. The second count in the indictment  
24 charges the defendant with operating an unlicensed money  
25 transmitting business. Whether you find Mr. Goklu guilty or

1 not as to one should not affect your verdict as to the other  
2 charge. Remove the D from charged.

3 I will now explain to you the law that applies to  
4 each count of the indictment. Count One, money laundering,  
5 Count One of the indictment charges the defendant with money  
6 laundering, specifically it reads as follows: On or about and  
7 between August 28, 2018 and April 30, 2019, both dates being  
8 approximate and inclusive within the Eastern District of New  
9 York and elsewhere, the defendant Mustafa Goklu, also known as  
10 Mustangy together with others did knowingly and intentionally  
11 conduct and attempt to conduct one or more financial  
12 transactions in and affecting interstate and foreign commerce  
13 to wit: The transfer and delivery of United States currency  
14 which transactions involve property represented by a law  
15 enforcement officer and by another person at the direction of  
16 and with the approval of a federal official authorized to  
17 investigate violations of Title 18 United States Code section  
18 1956 to be the proceeds of specified unlawful activity; to  
19 wit: Narcotics trafficking in violation of Title 21, United  
20 States Code sections 841 and 846 and to be property used to  
21 conduct and facilitate such specified unlawful activity with  
22 the intent to conceal and disguise the nature, location,  
23 sours, ownership and control of property believed to be the  
24 proceeds of such specified unlawful activity.

25 Count One charges the defendant with violating Title

1 18 United States Code section 1956-A-3-B which provides in  
2 relevant part whoever with the intent to disguise the  
3 nature, location, source, ownership or control of property  
4 believed to be the proceeds of specified unlawful activity  
5 conducts or attempts to conduct a financial transaction  
6 involving property represented to be the proceeds of specified  
7 unlawful activity or property used to conduct or facilitate  
8 specified unlawful activity shall be guilty of a crime.

9           For purposes of this paragraph, the term represented  
10 means any representation by a law enforcement officer or by  
11 another person at the direction of or with the approval of a  
12 federal official authorized to investigate or prosecute  
13 violations of this section. To prove the crime of money  
14 laundering, the Government must establish beyond a reasonable  
15 doubt each of the following three elements: First, that the  
16 defendant conducted or attempted to conduct a financial  
17 transaction that affected interstate or foreign commerce in  
18 any way or degree. Second, that the transaction involved  
19 property represented by a law enforcement officer and believed  
20 by the defendant to be the proceeds of specified unlawful  
21 activity. And, third, that the defendant acted with the  
22 intent to conceal or disguise the nature, location, source,  
23 ownership or control of the property.

24           The first element, financial transaction. The first  
25 element the Government must prove beyond a reasonable doubt is

1 that the defendant conducted or attempted to conduct a  
2 financial transaction that affected interstate or foreign  
3 commerce in any way or degree. The term conducts includes  
4 initiating, concluding or participating in initiating or  
5 concluding a transaction. A transaction includes a purchase,  
6 sale, loan, pledge, gift, transfer, delivery or other  
7 disposition of property.

8           The term financial transaction means a transaction  
9 which itself affects interstate or foreign commerce in any way  
10 or degree and which involves, A, a movement of funds by wire  
11 transfer or other similar means, B, a monetary instrument such  
12 as cash check money order or any other negotiable instrument.  
13 Or, C, a transfer of title to any real property, vehicle,  
14 vessel or aircraft.

15           I want to define interstate or foreign commerce for  
16 you now. The term interstate or foreign commerce means  
17 commerce between any combination of states of the United  
18 States or between the United States and a foreign country.  
19 You must find the transaction affected interstate commerce in  
20 some way, however minimal. The second element: Involving  
21 property represented its proceeds as specified unlawful  
22 activity. The second element that the Government must prove  
23 beyond a reasonable doubt is that the transaction the  
24 defendant conducted or attempted to conduct involved property  
25 represented by a law enforcement officer and believed by the

1 defendant to be the proceeds of specified unlawful activity.  
2 For the purposes of this section, a law enforcement officer  
3 includes federal law enforcement officers and any other person  
4 acting under the direction or with the approval of a federal  
5 official authorized to investigate or prosecute money  
6 laundering.

7 I instruct you that for purposes of this case, the  
8 individual known as Patrick O'Kain, who testified during this  
9 trial, was a law enforcement officer during the time period  
10 charged in the indictment. The term proceeds means any  
11 property derived from or obtained or retained directly or  
12 indirectly through some form of unlawful activity including  
13 the gross receipts of such activity. Proceeds can be any kind  
14 of property, not just money.

15 In order to sustain its burden of proof on this  
16 element, the Government is not required to prove that the law  
17 enforcement officer made an express affirmative statement to  
18 the defendant that the property involved was the proceeds of  
19 unlawful activity, in this case narcotics trafficking.  
20 Instead, the Government must prove that the law enforcement  
21 officer made the defendant aware of certain circumstances from  
22 which a reasonable person would infer that the property was  
23 the proceeds of illegal activity and that the defendant  
24 believed that the property was the proceeds of illegal  
25 activity. You should consider all of the evidence in

1 determining whether the Government has satisfied this  
2 standard. The term specified unlawful activity is simply a  
3 list of crimes set forth in the money laundering statute. In  
4 this case, the indictment charges the specified unlawful  
5 activity of narcotics trafficking I instruct you that  
6 narcotics trafficking means the manufacture, importation,  
7 receiving, concealment, buying, selling or otherwise dealing  
8 in a controlled substance or listed chemical under the  
9 Controlled Substance Act.

10 I also instruct you that marijuana, oxycodone and  
11 Adderall are controlled substances under the Controlled  
12 Substances Act. I further instruct you that narcotics  
13 trafficking is a specified unlawful activity for the purposes  
14 of the crime charged. The Government is not required to prove  
15 that the property actually was the proceeds of some form of  
16 specified unlawful activity in this case, narcotics  
17 trafficking. The Government is not required to prove that any  
18 narcotics trafficking actually took place or that the property  
19 in the charged transactions actually constituted proceeds of  
20 narcotics trafficking. To sustain its burden of proof on this  
21 element, the Government is required to prove that the charged  
22 transactions involved property that was represented to the  
23 defendant to be the proceeds of narcotics trafficking and that  
24 the defendant believed that the property was the proceeds of  
25 narcotics trafficking.

1           In determining whether the defendant believed that  
2 the property was the proceeds of narcotics trafficking, you  
3 may consider whether the defendant deliberately closed his  
4 eyes as to what otherwise would have -- as to what otherwise  
5 would have been obvious to him. If you find beyond a  
6 reasonable doubt that the defendant was aware of a high  
7 probability that the charged transactions involved the  
8 proceeds of narcotics trafficking and that the defendant acted  
9 with deliberate disregard of the facts, you may find that the  
10 defendant acted with the belief necessary to satisfy this  
11 element.

12           However, if you find that the defendant has failed  
13 to prove beyond a reasonable doubt that the defendant was  
14 aware of a high probability that the charged transactions  
15 involved the proceeds of narcotics trafficking he may not be  
16 convicted.

17           Third element, attempt to conceal or disguise and  
18 we're on page 22, everyone, out of 29.

19           The third element the Government must prove beyond a  
20 reasonable doubt is that the defendant acted with the intent  
21 to conceal or disguise the nature, location, source, ownership  
22 or control of the property. Here, Bitcoin is the alleged  
23 property. To satisfy this element, the Government must prove  
24 that the defendant knew of the purpose of the particular  
25 transaction in issue and that he intended that the transaction



1 conceal or disguise the nature, location, source, ownership or  
2 control of the property in question. I have previously  
3 instructed you about the definitions of knowingly and  
4 intentionally and the same definitions apply here.

5 F, Count Two, operation of an unlicensed money  
6 transmitting business. Count Two charges the defendant of  
7 with the crime of operating an unlicensed money transmitting  
8 business, specifically it reads as follows: On or about and  
9 between August 28, 2018 and April 30, 2019, both dates being  
10 approximate and inclusive, within the Eastern District of New  
11 York and elsewhere, the Defendant MUSTAFA GOKLU, also known as  
12 "Mustangy," together with others, did knowingly conduct,  
13 control, manage, supervise, direct and own all and part of an  
14 unlicensed money transmitting business affecting interstate  
15 and foreign commerce, to wit: A digital currency exchange  
16 business, which (a) operated without an appropriate money  
17 transmitting license in the State of New York, where such  
18 operation is punishable as a misdemeanor and a felony under  
19 New York State law; and (b) failed to comply with the money  
20 transmitting business registration requirements under Title  
21 31, United States Code, Section 5330 and the regulations  
22 prescribed thereunder.

23 Count Two charges the Defendant with violating Title  
24 18, United States Code, Section 1960(a), which provides, in  
25 relevant part: Whoever knowingly conducts, controls, manages,

1 supervises, directs, or owns all or part of an unlicensed  
2 money transmitting business, shall be guilty of a crime. In  
3 order for you to find the Defendant guilty of the crime  
4 charged in Count Two, the Government must prove beyond a  
5 reasonable doubt each of the following three elements:

6 First, that the Defendant knowingly controlled,  
7 conducted, managed, supervised, directed, or owned all or part  
8 of a money transmitting business; Second, that either the  
9 money transmitting business was not licensed, and operated in  
10 a state where the business was required to be licensed, or the  
11 business failed to register as required with the Secretary of  
12 the Treasury; and Third, that the money transmitting business  
13 affected interstate or foreign Commerce.

14 I will now instruct you in more detail on each of  
15 these three elements. First element, money transmitting  
16 business.

17 The first element the Government must establish  
18 beyond a reasonable doubt is that Defendant knowingly  
19 controlled, conducted, managed, supervised, directed, or owned  
20 all or part of a "money transmitting business."

21 The Government is not required to prove that the  
22 Defendant did all the things in that list, but only that he  
23 did any one of them. In order for you to evaluate this  
24 element, let me define the following terms for you. A  
25 "business" is a commercial enterprise that is regularly

1 carried on for profit. Thus, a single isolated transmitting  
2 of money is not a business under this definition. A “money  
3 transmitting business” is a business which, for a fee, accepts  
4 currency, funds, or value that substitutes for currency for  
5 transfer within or outside the United States. I instruct you  
6 that Bitcoin qualifies as “funds” under the statute. The term  
7 “money transmitting” includes transferring funds on behalf of  
8 the public by any and all means including but not limited to  
9 transfers within this country or to locations abroad by wire,  
10 check, draft, facsimile, or courier. The terms “conducted,”  
11 “controlled,” “managed,” “supervised,” “directed,” or “owned”  
12 have their ordinary meanings. A single isolated transmission  
13 of money is not a business under this definition. It is for  
14 you to determine whether the quantity and nature of the  
15 transmittals convert the transactions into a business.

16 To prove that the Defendant conducted, controlled,  
17 managed, supervised, directed, or owned the money transmitting  
18 business, the Government must establish that the Defendant was  
19 involved in the management of the business and was not merely  
20 an employee of that business.

21 To satisfy this element, the Government must prove  
22 that the Defendant knowingly controlled, conducted, managed,  
23 supervised, directed, or owned the money transmitting  
24 business. The Government must establish that Defendant was  
25 involved in the management of the business and was not merely

1 an employee of that business. I previously instructed you as  
2 to the definition of knowingly, and the same definition  
3 applies here.

4           Second Element, Unlicensed Money Transmitting  
5 Business. The second element the Government must prove beyond  
6 a reasonable doubt is that the money transmitting business the  
7 Defendant conducted was unlicensed. An unlicensed money  
8 transmitting business is a money transmitting business which  
9 is either: (1) operating in a state without a required license  
10 where operation without a license was punishable as a  
11 misdemeanor or felony under state law, or (2) not registered  
12 as required with the United States Secretary of the Treasury.  
13 To satisfy this element, the Government needs to prove beyond  
14 a reasonable doubt only that the money transmitting business  
15 was unlicensed in one of these respects. However, in order to  
16 convict on this count, you must be unanimous that the  
17 Government proved beyond a reasonable doubt that at least one  
18 or the other of these two conditions was satisfied.

19           I will now explain these two licensing requirements.  
20 Let me start with the state licensing requirement. The  
21 Government can satisfy this element by showing that the  
22 Defendant operated his business without a required license in  
23 a State where such operation was punishable as a misdemeanor  
24 or felony under State law. I instruct you that the term  
25 "State" includes any State of the United States. Therefore,

1 New York is a "State." The only State at issue in this trial  
2 is New York. I instruct you that the laws of the State of New  
3 York require that any person who engages in the business of  
4 receiving money for transmission or of transmitting money to  
5 be licensed as a money transmitter by the New York State  
6 Department of Financial Services. I also instruct you that  
7 New York law also makes engaging in such a business without a  
8 license punishable as a felony or a misdemeanor, depending on  
9 factors that are not relevant here.

10 Let me start with the state licensing requirement.  
11 The Government can satisfy this element by showing that the  
12 defendant operated his business without a required license in  
13 a state or such operation was punishable as a misdemeanor or  
14 felony under state law. I instruct you that the term state  
15 includes any state of the United States. Therefore, New York  
16 is a state, in case you didn't know that. The only state at  
17 issue in this case is New York.

18 I instruct you that the laws of the State of New  
19 York require that any person who engages in the business of  
20 receiving money for transmission or of transmitting money to  
21 be licensed as a money transmitter by the New York State  
22 Department of Financial Services. I also instruct you that  
23 New York law also makes engaging in such a business without a  
24 license punishable as a felony or a misdemeanor, depending on  
25 factors that are not relevant here.

1           Let me now turn to the licensing requirement under  
2 the laws of the United States with the Secretary of the  
3 Treasury. Federal law requires certain money transmitting  
4 businesses to register with the Secretary of the Treasury  
5 within 180 days after the business was established.  
6 Specifically this registration requirement applies to any  
7 money transmitting business, foreign or domestic, that engaged  
8 in money transmitting functions in the United States. It is  
9 for you to determine whether the money transmitting business  
10 in this case was licensed as required by law.

11           To prove this element, the Government must prove  
12 that Defendant knew that the business was unlicensed. The  
13 Government does not have to prove that the Defendant knew that  
14 New York law or federal law required the business to be  
15 licensed. The Government does not need to show that Defendant  
16 knew that it is a crime under New York law to operate a money  
17 transmitting business without a license. I previously  
18 instructed you as to the definition of knowingly, and the same  
19 definition applies here.

20           The third element the Government must prove beyond a  
21 reasonable doubt is that the money transmitting business  
22 affected interstate or foreign commerce. Interstate or  
23 foreign commerce simply means the movement of goods, services,  
24 money, or individuals between states or between the United  
25 States and a foreign state or nation. The Government must

1 prove that the money transmitting business affected interstate  
2 or foreign commerce in any manner, no matter how minimal. It  
3 is not necessary for the Government to prove that the acts of  
4 the Defendant himself affected interstate or foreign commerce  
5 so long as the acts of the money transmitting business had  
6 such effect. In addition, it is not necessary for the  
7 Government to show that the Defendant actually intended or  
8 anticipated that his actions would have an effect on  
9 interstate or foreign commerce.

10 Finally, the Government is not required to prove  
11 that the Defendant knew he was affecting interstate or foreign  
12 commerce.

13 All right, closing instructions, part three. I have  
14 now outlined for you the rules of law applicable to this case,  
15 the process by which you weigh the evidence and determine the  
16 facts, and the legal elements that must be proved beyond a  
17 reasonable doubt. In a few minutes you will retire to the  
18 jury room for your deliberations. I will now give you some  
19 general rules regarding your deliberations. Keep in mind that  
20 nothing I have said in these instructions is intended to  
21 suggest to you in any way what I think your verdict should be.  
22 That is entirely for you to decide.

23 By way of reminder, I instruct you once again that  
24 it is your responsibility to judge the facts in this case from  
25 the evidence presented during the trial and to apply the law

1 as I have given it to you, and your verdict must be based  
2 solely on this evidence and law, not on anything else.

3 I will turn to the role of the foreperson. For your  
4 deliberations to proceed in an orderly fashion, you must have  
5 a foreperson. The custom in this courthouse is for Juror No.  
6 1 to act as the foreperson. However, if, when you begin  
7 deliberations, you decide that you want to elect another  
8 foreperson, you are entitled to do so. The foreperson will be  
9 responsible for signing all communications to the court and  
10 for handing them to the Deputy Marshal during your  
11 deliberations, but, of course, his or her vote is entitled to  
12 no greater weight than that of any other juror.

13 Communication with the Court. It is very important  
14 that you not communicate with anyone outside the jury room  
15 about your deliberations or about anything touching on this  
16 case. There is only one exception to this rule. If it  
17 becomes necessary during your deliberations to communicate  
18 with me, you may send a note, through the Deputy Marshal,  
19 signed by your foreperson. No member of the jury should  
20 attempt to communicate with me except by a signed writing, and  
21 I will never communicate with any member of the jury on any  
22 subject touching upon the merits of the case other than in  
23 writing, or orally here in open court.

24 C. Right to see exhibits and read testimony. Your  
25 recollection governs. Nobody else's. If, in the course of



1 your deliberations, your recollection of any part of the  
2 testimony should fail, or you should find yourself in doubt  
3 concerning my instructions to you on the law, you may request  
4 that a witness's or witnesses' testimony, or portions thereof,  
5 be sent back to you in the jury room. If during your  
6 deliberations you want to see any of the exhibits that are not  
7 already available to you in the jury room, you may request  
8 that as well.

9           You may make all these requests by a note to the  
10 Deputy Marshal. I suggest, however, that you be specific to  
11 avoid receiving testimony or exhibit that you do not want or  
12 need. Describe as best and precisely as you can what you want  
13 to hear and please be patient because it sometimes takes a  
14 while to find the testimony or exhibit in the record.

15           Deliberations and unanimous verdict. Your duty is  
16 to reach a fair conclusion from the law as I have given it to  
17 you and the evidence that has been presented in this case.  
18 This duty is an important one. When you are in the jury room,  
19 listen to each other, and discuss the evidence and issues in  
20 the case amongst yourselves. It is the duty of each of you,  
21 as jurors, to consult with one another, and to deliberate with  
22 a view toward reaching agreement on a verdict, if you can do  
23 so without violating your individual judgment and conscience.  
24 While you should not surrender conscientious convictions of  
25 what the truth is and of the weight and effect of the

1 evidence, and while each of you must decide the case for  
2 yourself and not merely acquiesce in the conclusion of your  
3 fellow jurors, you should examine the issues and the evidence  
4 before you with candor and frankness, and with proper  
5 deference to, and regard for, the opinions of your fellow  
6 jurors.

7           You should not hesitate to reconsider your opinions  
8 from time to time and to change them if you are convinced they  
9 are wrong. However, do not surrender an honest conviction as  
10 to the weight and effect of the evidence simply to arrive at a  
11 verdict. The decision you reach must be unanimous; you must  
12 all agree.

13           When you have reached a verdict, simply send me a  
14 note signed by your foreperson that you have reached a  
15 verdict. Do not indicate what the verdict is. In no  
16 communication with the Court should you give a numerical count  
17 of where the jury stands in its deliberations.

18           Remember in your deliberations that the Government's  
19 charges against the Defendant are no passing matter. The  
20 parties and the Court rely upon you to give full and  
21 conscientious deliberation and consideration to the issues and  
22 evidence before you. By so doing, you carry out to the  
23 fullest your oaths as jurors—to well and truly try the issues  
24 of this case and render a true verdict.

25           So if you will give me a moment I want to see the

1 lawyers at sidebar

2 (Sidebar held outside of the hearing of the jury.)

3 THE COURT: So let me turn first to the Government,  
4 anything that I misread or need to correct from the jury  
5 instructions as I read them to the jury?

6 MS. DIOUF: I did notice one thing actually. So, on  
7 page 22, I believe you might have said the defendant instead  
8 of the Government. I'm trying to find the actual page. It's  
9 on 20 would be at the bottom. That's what I heard.

10 THE COURT: So which sentence.

11 MS. DIOUF: The last sentence however, if you find  
12 that the Government has failed to prove beyond a reasonable  
13 doubt that the defendant was aware of a high probability.

14 THE COURT: So I read that the defendant has failed  
15 to prove.

16 MS. DIOUF: I thought I heard you say defendant.

17 THE COURT: I will make sure that I.

18 MR. SINGER: I think you did, but I think it is  
19 clear from reading along and when the next sentence --

20 THE COURT: Does anyone want --

21 MR. SINGER: I don't have any request that you  
22 correct it.

23 MS. KASSNER: That's fine. We just wanted to note  
24 it for the record.

25 THE COURT: Maybe I will make a general note that if

1 for some reason I read something incorrectly they obviously  
2 have the written instructions in front of them.

3 Any objection to any instructions as read to the  
4 jury?

5 MR. SINGER: No.

6 THE COURT: All right. So we're going to send this  
7 back there. There were some small typographical errors that  
8 I'm not going to fix because they're not consequential.

9 (End sidebar.)

10 THE COURT: Ladies and gentlemen, thank you for your  
11 patience. Now we're going to let you retire for your  
12 deliberations. We're going to call for the U.S. Marshal to  
13 be sworn. Your lunch will be arriving right about now and you  
14 can deliberate while you have your lunch or not, but you must  
15 decide amongst yourselves unanimously whether you're going to  
16 do that because obviously everybody has to be involved in the  
17 deliberations with the exception of our first alternate we're  
18 going to keep you here but separate from the rest of the jury.  
19 Things can happen it's possible that you may be called upon to  
20 deliberate, so obviously the same rules apply to you that you  
21 cannot speak to anyone about the case. The jurors obviously  
22 now can discuss the case with each other during deliberations.  
23 Let's have the marshal come forward.

24 THE COURTROOM DEPUTY: Do you solemnly swear or  
25 affirm that you will keep the jurors sworn in this cause

1 together in some private and convenient place and shall let no  
2 one speak to them nor shall you speak to them without  
3 direction of the Court.

4 THE MARSHAL: Yes, I do.

5 (U.S. Marshal, sworn.)

6 THE COURT: The jury will now retire for their  
7 deliberations and we will have the alternate remain here.  
8 Have a good lunch, everyone.

9 THE COURTROOM DEPUTY: All rise.

10 (Jury exits to begin deliberations at 12:55 p.m.)

11 THE COURT: So our first alternate will be taken to  
12 a separate room. I hope you feel special because you get a  
13 private room and sadly you have to have lunch by yourself.

14 (Alternate juror exits courtroom.)

15 THE COURT: Everyone have a seat. When Ms. Gonzalez  
16 comes back we'll mark the jury instructions as Court Exhibit  
17 Number 1, the verdict sheet as Court Exhibit Number 2. We  
18 will send those back to the jury to the extent that they want  
19 to use their lunch break to start deliberating, but then we  
20 will very quickly assemble all the exhibits and you will  
21 coordinate with Ms. Gonzalez to make sure that everybody  
22 agrees on the list that goes back as well as the exhibits that  
23 are being sent back, okay?

24 Then after that you are obviously free to get lunch  
25 but leave your cellphones with us should we get a note and

1 don't leave the building. That would be my recommendation.

2 So the record is clear, my law clerk is also handing  
3 you the verdict sheet which we've now removed the reference to  
4 draft on it, but it's the same one that was circulate  
5 testified a couple of days ago.

6 (Pause in proceedings.)

7 (Court Exhibit 1 jury instructions received in  
8 evidence.)

9 (Court Exhibit 2 verdict sheet received in  
10 evidence.)

11 (Luncheon recess taken.)

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1 (Time noted 3:56 p.m.)

2 (Court Exhibit 3, received in evidence.)

3 THE COURT: So, we have a note which has been marked  
4 as Court Exhibit 3 and it reads: "Hello. May we have the  
5 transcript from the first two witnesses? Patrick O'Kain" and  
6 it's spelled L-O-L-E-T-T-A. "Thank you!" Signed by the  
7 foreperson. So clearly Patrick O'Kain was the first witness  
8 and the second one --

9 MR. SINGER: Lilita Infante.

10 THE COURT: Right. So, folks --

11 MR. SINGER: The answer would be yes.

12 THE COURT: But rather than bringing them out here  
13 we're just going to send the transcripts back to them once you  
14 folks agree on what can go back. You should pull all of the  
15 sidebars and you should also redact testimony that was  
16 excluded, if anything, a sustained objection, for example.

17 Do you folks have a computer copy?

18 MS. DIOUF: Your Honor, we've already prepared  
19 redacted transcripts, or Bridget did it for us.

20 THE COURT: So show the original and the redacted  
21 version to Mr. Singer and see if they agree to your  
22 redactions.

23 MS. DIOUF: Yes, Your Honor.

24 THE COURT: Do you have an original copy, Mr. Singer  
25 of the transcript with you?

1           MR. SINGER: Yes. I have the e-mail with the  
2 transcript.

3           THE COURT: I am not going to tell you how to double  
4 check them, but you may want to read the entire transcripts  
5 yourself to see if other portions should be redacted or you  
6 can focus on what the Government redacted and see if that's  
7 okay with you.

8           (Pause in proceedings.)

9           THE COURT: If there's no dispute I'm going to go  
10 back upstairs.

11          MS. KASSNER: There's no dispute.

12          MR. SINGER: We're good. We've identified them.

13          THE COURT: Once you folks are done with the  
14 redactions and agree upon them, they will be sent back to the  
15 jury and Fida I think we marked them as Court Exhibits.  
16 Ms. Gonzalez will note which Court Exhibits they are. I also  
17 wanted to note that while I am here that after the jury  
18 instructions and verdict sheet were sent back to the jury, the  
19 parties also reviewed the exhibits that were being sent back  
20 to the jury and agreed upon those; is that correct from the  
21 Government's perspective?

22          MS. DIOUF: Yes it is, Your Honor.

23          THE COURT: Mr. Singer, you agreed on which exhibits  
24 would go back.

25          MR. SINGER: Yes.



1 THE COURT: I will leave you folks to it.

2 (Time noted: 4:15 p.m.)

3 (Pause in proceedings.)

4 (Time noted: 4:43 p.m.)

5 THE COURT: So we've received another note from the  
6 jury which has been marked as Court Exhibit 5.

7 (Court Exhibit 4 received in evidence.)

8 (Court Exhibit 5 received in evidence.)

9 THE COURT: It says, "The jury has reached a verdict  
10 on Count Two but are undecided on Count One. We are at a  
11 standstill on Count One and haven't made any progress."

12 I note that we have yet to send them back the  
13 transcripts that they had requested in their earlier note so  
14 my proposal is that I bring them out here and explain to them  
15 that we've received both of their notes now and I would like  
16 them to go back and continue their deliberations on Count One  
17 with the benefit of the transcripts that they had requested,  
18 but took us a while to put together and I had or I think it  
19 makes sense to give them kind of a general *Allen*-type charge  
20 which in full it reads, "I am going to ask you to resume your  
21 deliberations in an attempt to reach a verdict. As I have  
22 told you, each of you must agree in order to return a verdict.  
23 While you are entitled to your own opinions, you should  
24 consult with one another and listen carefully to each other.  
25 As you deliberate, each of you should not hesitate to

1 reexamine your own views and your own opinions. If you're  
2 convinced that another opinion is correct, that doesn't mean  
3 you should surrender an honest conviction, but it does mean  
4 that your consideration of the evidence should be in  
5 consultation with your fellow jurors."

6 Does anyone have any problem with me saying that to  
7 the jury?

8 MS. KASSNER: No objection, Your Honor.

9 MR. SINGER: I think it's too early.

10 THE COURT: You say just send it back.

11 MR. SINGER: They've been deliberating for less than  
12 four hours. I say send them back and say keep working on it.

13 THE COURT: I can certainly save this *Allen* charge  
14 for later. So let's have them out here and we have the  
15 transcripts and we'll send those back to them when they  
16 return.

17 THE COURT: It's marked as Court Exhibit 4.

18 THE COURT: Does anyone have a problem with  
19 Ms. Gonzalez handing it to the foreperson?

20 MS. KASSNER: No objection.

21 MR. SINGER: No objection.

22 THE COURT: Court Exhibit 4.

23 (Jury enters at 4:46 p.m.)

24 THE COURT: So we received your last two notes. So  
25 your first note requested the transcript from the first two

1 witnesses, Patrick O'Kain and a person you identified as  
2 Loletta but we think is Ms. Infante or Agent Infante. So that  
3 has been compiled for you and my apologies that it took some  
4 time but we had to make some redactions.

5 Your second note reads, "The jury has reached a  
6 verdict on Count Two but are undecided on Count One. We are  
7 at a standstill on Count One and haven't made any progress."

8 So what I would like to do is I'm going to send you  
9 back to deliberate further with respect to Count One  
10 especially now that you have the benefit of the transcripts  
11 that you had requested, but that you haven't yet received. So  
12 Ms. Gonzalez is going to hand the transcript, which has been  
13 marked as Court Exhibit 4 to our foreperson and I ask you to  
14 return to your deliberations and resume deliberations on Count  
15 One. All I will say is you haven't really been deliberating  
16 all that long in the scheme of things so I would like you to  
17 go and give it a try to see if you can reach a unanimous  
18 verdict. So, thank you everyone.

19 THE COURTROOM DEPUTY: All rise.

20 (Jury exits to continue deliberations at 4:48 p.m.)

21 THE COURT: Thank you, everyone. You can resume  
22 what you were doing before but stay close by.

23 MR. SINGER: Judge. Do you have a sense on how late  
24 you want to stay this evening?

25 THE COURT: I am willing to let the jury stay as

1 late as they want to. If they don't send a note out by  
2 5:30 -- I'm going to just let them continue to deliberate but  
3 I expect as we get close to 5:30 they may send a note out  
4 asking whether they can continue or whether they can go home  
5 but my inclination is to let them keep going.

6 THE COURT: Thank you.

7 MS. KASSNER: Thank you, Your Honor.

8 (Recess taken.)

9 (Time noted: 5:53 p.m.)

10 (Alternate juror enters.)

11 THE COURT: Have a seat, Mr. Chang.

12 Here is what we're going to do. It's well past 5:30  
13 and the jury is still deliberating. We're going to let you go  
14 home because at this point even if, and this would be very,  
15 very unlikely you were needed to substitute tonight, I would  
16 probably tell the jury to come back on Tuesday rather than go  
17 later. So we're going to let you go home but you are still  
18 our alternate and so you still need to observe all the rules.  
19 Don't talk to anybody about the case because there hasn't been  
20 a verdict yet and don't do any research and I guess keep an  
21 open mind unless and until you are put into the jury to start  
22 deliberating, but we will need you back here on Tuesday again.

23 But I am sorry to do this to you, but you serve a  
24 very important role to ensure that we get a verdict in the  
25 unlikely event that we lose one of our jurors and given that

1 the deliberations may carry over to Tuesday, that possibility  
2 obviously grows greater, right, because we're talking about a  
3 three-day break. So we want you back here as well on Tuesday  
4 by 9:30 and bring some things to occupy your time because you  
5 will be sitting in a room again by yourself until we know  
6 whether or not we need you, all right?

7 So, thank you again for your service and your  
8 patience. I know it's a difficult position to be in, but  
9 trust me you are serving a tremendous service just by being  
10 here and being willing to serve as our alternate. Again,  
11 don't talk to anyone about the case. It's still open. Okay,  
12 have a wonderful weekend.

13 THE ALTERNATE JUROR: Will there be any circumstance  
14 such that I would not be coming at 9:30 or is 9:30 100  
15 percent?

16 THE COURT: We will advise you if for some reason  
17 because the injury is still deliberating if they get a verdict  
18 tonight you will get a call saying you don't need to come at  
19 all. It's possible we will have a late start so the expected  
20 time if you are coming in on Tuesday would be 9:30. That's  
21 what you're asking about, right?

22 THE ALTERNATE JUROR: So if it concludes today, I  
23 will get a call over the weekend.

24 THE COURT: Yes, not to come in at all, but if you  
25 don't get any call come in on Tuesday and be here by 9:30.

1 Thank you so much.

2 THE ALTERNATE JUROR: Please leave a message.

3 THE COURT: We have your cell number from the time  
4 from the subway.

5 THE ALTERNATE JUROR: I also sent an e-mail.

6 THE COURT: And we have that. Thank you. Have a  
7 good weekend.

8 (Alternate juror exits the courtroom.)

9 THE COURT: It's 5:56. As I said, before we have  
10 not gotten any further notes from the jury. So I assume  
11 they're continuing to deliberate. As I said, I'm not going to  
12 bring them out here to find out what they want to do or how  
13 long they want to stay.

14 MS. KASSNER: The Government would ask for a partial  
15 verdict whenever they're next out.

16 THE COURT: Mr. Singer, I can give them the  
17 instruction on that, that the import of that is that they can  
18 give their partial verdict, but that that portion is final and  
19 cannot be revisited and then they can continue to deliberate  
20 on the count, which is one that they're still considering.  
21 Mr. Singer?

22 MR. SINGER: I would oppose that. There's no need  
23 for it. Again, they have not been deliberating that long and  
24 I don't see any need or reason to just jump and grab something  
25 because they said they have a verdict on one count. Let them

1 continue to deliberate. What's the point?

2 THE COURT: Well, I mean it does create the record  
3 and finalize their one verdict and the case law supports  
4 accepting a partial verdict. It doesn't stop them from  
5 continuing to deliberate. Is there concern that once they  
6 announce the one verdict they will throw their hands up and  
7 say we don't want to decide the remaining count?

8 MR. SINGER: I don't know what effect it will have  
9 and I understand you can find case law to support many things  
10 but it's not necessarily the right thing to do under the  
11 circumstances and I don't understand the reason for it. If  
12 they've reached a point where they said we've not reached a  
13 verdict certainly I understand taking a partial, but to do it  
14 now four or five hours in, I just don't understand what the  
15 rush is.

16 THE COURT: Ms. Kassner, is there any reason not to  
17 just simply wait especially because I anticipate at this point  
18 they may not come up for a little while now. I don't think  
19 they're going to be wanting to stick around to tell us what  
20 their verdict is on Count One if they haven't resolved  
21 everything.

22 MS. KASSNER: I think the main reason is a practical  
23 one, Your Honor. We have a three-day weekend ahead of us and  
24 I think we're all aware that sometimes people get sick,  
25 sometimes things come up and so our thought is if they have

1 reached a unanimous verdict on one count, it may be pragmatic  
2 to have the verdict that they've certain of and just have it  
3 recorded.

4 THE COURT: It raises an interesting question; I  
5 suppose what if one of the jurors does not come back on  
6 Tuesday, a verdict on one count will have already been  
7 rendered and then the jury can reconvene with the alternate to  
8 decide the other count. That is a legitimate practical reason  
9 to get the verdict on the record as to the count they've  
10 already resolved.

11 MR. SINGER: Actually, I thought you were going to  
12 say that's a very practical reason not to get the verdict on  
13 the record at this point because if one of the 12 was not able  
14 to continue and you substituted the alternate in, you would be  
15 instructing them to start over.

16 THE COURT: No. Only on the open count.

17 MR. SINGER: Then you would have verdict on the two  
18 counts by two different juries.

19 THE COURT: I do not think it's prohibited under the  
20 rules. I think it's a reason to take a partial verdict. We  
21 have a fully constituted, legitimate jury that reached a  
22 unanimous decision on Count Two. We can take that verdict and  
23 therefore guard against the possibility that a juror doesn't  
24 come back on Tuesday.

25 MR. SINGER: But then you've got -- then you would



1 have -- and if the newly constituted jury with the alternate  
2 were to deliberate then on a two-count indictment in one  
3 trial, you would have two verdicts by different juries.

4 THE COURT: I understand that. You can say it  
5 again. I still understand it.

6 MR. SINGER: I just don't understand.

7 THE COURT: I do not understand if there's any legal  
8 infirmity of that, is what I'm saying. I understand what the  
9 situation could be. The question is and I don't know if  
10 anyone knows the answer, but I am going to take a look at this  
11 with my law clerk now if there's any legal impediment to doing  
12 that whether that would be improper as you said have verdicts  
13 on different counts in the indictment rendered by different  
14 constituted juries because of the absence or replacement of a  
15 juror. I don't think that that's unusual and if I can take a  
16 partial verdict I assume that's the logical implication is  
17 that that's nothing improper about that.

18 MS. KASSNER: Your Honor, we'll take a look as well.  
19 We haven't confronted this in our personal experience. I  
20 think the other concern is the Government has thought about  
21 what if there's not just one juror out, but two jurors? We  
22 only have one alternate. We risk not having a verdict at all.

23 THE COURT: Let's do this. Everyone sort of take  
24 some time to research this very quickly while we can: We'll  
25 come right back if we find an answer.

1 (Judge exits.)

2 (Time noted 6:02 p.m.)

3 (Court Exhibit 6 received in evidence.)

4 (Judge enters: Time noted 6:31 p.m.)

5 THE COURT: So, I don't know if the Government or  
6 defense has come up with any case law on the particular issue  
7 of whether or not I can take a partial verdict from the jury  
8 but still direct them and -- still direct them to deliberate  
9 and give them *Allen* charge let me tell but what this note says  
10 which has been marked as Court Exhibit 6. It says, "The jury  
11 is still" -- I can't read this. I think it's maybe apart on a  
12 verdict -- "still split on a verdict for Count Number One.  
13 After deliberating and reviewing evidence, all jurors are  
14 remaining with their position and decision on the verdict."

15 Now, obviously I can give them an *Allen* charge  
16 because I have yet to do that. I can give them an *Allen*  
17 charge, that's clear and have them come back on Tuesday. The  
18 question remains that I can tell them that they have the  
19 option of delivering a partial verdict on the counts that  
20 they're resolved on, but that would be final.

21 I can also tell them to continue to deliberate on  
22 Tuesday. Now, I will note that it was brought to my attention  
23 that Judge Dearcy Hall in one of her cases took a partial  
24 verdict but did not let the jury deliberate as to the other  
25 count or counts as to the same defendant. However, I found a

1 decision by Judge Buchwald, where, and this is *U.S. versus*  
2 *Colombo*, it's reported at 2007 Westlaw 2438391, from August  
3 27, 2007 where it appears that Judge Buchwald did take a  
4 partial verdict and that deliberations continued, but I want  
5 to double check and make sure I'm right about that.

6 MR. SINGER: Judge, I found one case from the  
7 Seventh Circuit in 2014 where the where a partial verdict was  
8 taken and an alternate was substituted in and the Court  
9 reversed that and sent it back for a new trial.

10 THE COURT: Well, I mean that's a second question.  
11 So I do tend to agree with you that even though other than the  
12 case you cite which obviously I think does support that  
13 proposition, even though I haven't found anything that holds  
14 exactly that, namely if you have verdicts on two separate  
15 counts by two separately constituted juries, that may be  
16 problematic. It seems to me at a minimum we should avoid  
17 that. But, there's two ways to view that. One is I can  
18 accept a partial verdict now, let them continue to deliberate,  
19 but if the same jury does not return in full on Tuesday, then  
20 that's the end of the deliberations, they cannot continue to  
21 deliberate on the open count which would mean that there's no  
22 possibility that they could return a verdict either way on  
23 Count One, which seems to be the one that they're still  
24 deadlocked on.

25 That -- you know, it's really up to the parties, but

1 I think I would not if we didn't have all the 12 jurors back  
2 on Tuesday substitute the alternate and have them continue to  
3 deliberate on an open count if I took a partial verdict today.  
4 I think that would be dangerous to do, but I think it's still  
5 possible to take a partial verdict, let them continue  
6 deliberating, and then see what happens on Tuesday and I don't  
7 think it would be infirm if they then returned. If it was the  
8 same jury returned a verdict after an *Allen* charge then on  
9 Count One. The only thing I will say is this, I have not yet  
10 advised the jury about the option of a partial verdict which I  
11 would have to do now and send them back to the jury room to  
12 tell me if they wanted to give me a partial verdict  
13 understanding that they still would be required to deliberate  
14 and understanding that their verdict on Count Two would be  
15 final.

16 What does the Government think?

17 MS. KASSNER: The Government would prefer to ask the  
18 jury if they are willing to exchange a partial verdict today  
19 with the understanding that Your Honor -- that if for some  
20 reason somebody in the three-day weekend doesn't return next  
21 week and the jury composition would be different, we  
22 understand that Your Honor then may not instruct them to  
23 reconvene on Count One --

24 THE COURT: No, here is the option that I'm  
25 proposing. I give them *Allen* charge and advise them of the

1 option of returning a partial verdict, right, because I want  
2 to make clear to them that returning a partial verdict doesn't  
3 avoid them having to return on Tuesday. I won't say what  
4 happens if everyone doesn't return on Tuesday, but you  
5 understand I will not allow them to deliberate on the open  
6 count.

7 MS. KASSNER: I fully understand. We would prefer  
8 that you go ahead and do exactly that.

9 THE COURT: Mr. Singer, what's your preference?

10 MR. SINGER: The opposite. My request is it's now  
11 6:38 p.m. I would ask that Your Honor send the jurors home  
12 for the weekend, have them come back on Tuesday morning. You  
13 can either give them an *Allen* charge now or give them an *Allen*  
14 charge when they return on Tuesday morning and let them  
15 continue to deliberate. If they are going to be permitted to  
16 continue to deliberate then I don't understand the necessity  
17 or the propriety of taking a partial verdict now.

18 So my request is to simply send them home for the  
19 weekend give them an *Allen* charge either now or on Tuesday  
20 morning.

21 THE COURT: Well, it might avoid a retrial if we  
22 don't get a full jury back or enough jurors back on Tuesday,  
23 the Government may decide not to retry the case if there's  
24 only one verdict.

25 MS. KASSNER: Your Honor, the Government's concern

1 here is we're in the middle of both, you know, an ongoing  
2 COVID pandemic which -- I think the bottom line is we're all  
3 wearing masks because we recognize that it's possible that  
4 people could be infected and if one juror tests positive I  
5 don't know what would happen to our jury next week. In  
6 addition, there's also flu season. I think we just believe it  
7 would be practical to at least inform the jury of their option  
8 if they desire to provide a partial verdict under the  
9 circumstances.

10 THE COURT: All right. I am going to do that  
11 because this is a somewhat unusual time. I will make the  
12 observation that even though I have required the jurors to be  
13 masked in this courtroom, my understanding is that they're not  
14 doing that in the jury room. So our efforts to try to keep  
15 them safe are only half the battle, quite honestly. They've  
16 obviously taken it upon themselves to be unmasked in a much  
17 smaller room than here. I'm going to bring them out, advise  
18 them of the option of a partial verdict, if they want to  
19 deliver one today, but advise them they still have to come  
20 back on Tuesday to continue their deliberations and I will  
21 give them further instructions on Tuesday regarding the  
22 continuation of those and then see what they want to do. I  
23 won't give them the *Allen* charge until Tuesday.

24 MR. SINGER: Can I clarify, you're going to ask them  
25 if they want to render a partial verdict, you'll send them

1 back to determine yes or no, but otherwise tell them they're  
2 going to be going only either way?

3 THE COURT: Yes, I can tell them that they can ask  
4 to render a partial verdict today or Tuesday. I will still  
5 give them that option if they want to do that. They don't  
6 have to make a decision now or do it now but that is an option  
7 available to them, but they still have to come back in any  
8 event on Tuesday.

9 I will note further for the record that the jury has  
10 been deliberating or at least out to deliberate since 1:00.  
11 We don't know whether they deliberated during the lunch break.  
12 We don't know how long that was if they decided not to  
13 deliberate but it's now about 6:30. So at a maximum they've  
14 been deliberating for about five and a half hours and that  
15 would be the maximum. If they stopped for lunch, it would be  
16 some time less than five and a half hours.

17 (Jury enters at 6:41 p.m.)

18 THE COURT: Ladies and gentlemen of the jury, I  
19 received your most recent note indicating that the jury is  
20 still, and I think the word is "split" on a verdict for Count  
21 Number One. After deliberating and reviewing evidence all  
22 jurors are remaining with their position and decision on the  
23 verdict. So, I brought you out here to tell you a few things.  
24 One is that you have the option available to you to render  
25 what is called a partial verdict.

1           In an earlier note you had suggested that you might  
2 have reached unanimity as to Count Two but not to Count One.  
3 You don't need to tell me or confirm that one way or the other  
4 but if you wanted to you had the option of delivering a  
5 unanimous verdict that you have reached unanimity on.  
6 However, that decision would be final and you could not then  
7 change it or take it back or modify it. And also it will not  
8 eliminate the requirement that I am now about to impose that  
9 you come back on Tuesday and resume your deliberations.

10           Now it's my intent on Tuesday when you are all back  
11 here to meet very briefly with you, with the parties and give  
12 you some very brief further instructions with respect to the  
13 resumption of your deliberations and so I want you all to  
14 think about what you would like to do with respect to  
15 delivering a partial verdict, which you can do today or you  
16 can do at any point. It doesn't have to be today, knowing  
17 that you will have to return on Tuesday in any event. And my  
18 apologies if it takes some time, but I want to be sure that I  
19 have given ou a full opportunity to reach if you can a  
20 unanimous verdict on both counts.

21           Let me let you go back now. Talk amongst yourselves  
22 let me know what you want to do with respect to today and with  
23 respect to a partial verdict if you want to do that today or  
24 at any point. And obviously if you decide if you want to  
25 defer the decision of course that is an option as well. After



1 that, you will be free to go home but have to return on  
2 Tuesday and start your deliberations at 9:30. So, again,  
3 we'll let you go now and thank you everyone.

4 (Jury exits at 6:45 p.m.)

5 THE COURT: All right. So let's give them a few  
6 minutes and see what they say.

7 (Pause in proceedings.)

8 (Time noted 6:50 p.m.)

9 THE COURT: So we have the next note from the jury,  
10 which is Exhibit Number 7.

11 (Court Exhibit 7, received in evidence.)

12 THE COURT: We will defer and continue deliberations  
13 on Tuesday. On Tuesday we will read both verdicts, signed by  
14 the foreperson. I'm going to have Fida tell the marshals that  
15 they can leave and hopefully they'll be back at 9:30. This  
16 means you all can go home as well. Have a good weekend.

17 Another note, Exhibit Number 8.

18 (Court Exhibit 8, received in evidence.)

19 THE COURT: The jury asks do they leave the evidence  
20 in the jury room and I told the marshal to tell them yes as  
21 opposed to taking it home.

22 (Time noted: 6:55 p.m.)

23 (Matter adjourned until Tuesday, October 11, 2022, 9:30 a.m.)

24 - oo0oo -

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I N D E XE X H I B I T S

Court Exhibit 1	644
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Court Exhibit 4	647
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Court Exhibit 6	656
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